



# Journal of the House

State of Indiana

114th General Assembly

Second Regular Session

Ninth Meeting Day

Monday Afternoon

January 23, 2006

The House convened at 1:30 p.m. with Speaker Brian C. Bosma in the Chair.

The Pledge of Allegiance to the Flag was led by Representative Dennie Oxley II.

The Speaker ordered the roll of the House to be called:

Aguilera	Koch
Austin	Kromkowski
Avery	Kuzman
Ayres	L. Lawson
Bardon	Lehe
Bauer	Leonard
Behning	J. Lutz ☐
Bell	Mahern
Bischoff	Mays
Borders	McClain
Borror	Messer
C. Bottorff	Micon
Bright	Moses
C. Brown	Murphy
T. Brown	Neese
Buck	Noe
Budak	Orentlicher
Buell	Oxley
Burton	Pelath
Cheney	Pflum
Cherry ☐	Pierce
Cochran	Pond
Crawford	Porter
Crooks	Reske
Crouch	Richardson
Davis	Ripley
Day	Robertson
Denbo	Ruppel
Dickinson	Saunders
Dobis	J. Smith
Dodge	V. Smith
Duncan	Stevenson
Dvorak	Stilwell
Espich	Stutzman
Foley	Summers
Friend	Thomas
Frizzell	Thompson
Fry	Tincher
GiaQuinta	Torr
Goodin	Turner
Grubb	Tyler
Gutwein	Ulmer
E. Harris	VanHaafte
T. Harris	Walorski
Heim	Welch
Hinkle	Whetstone
Hoffman	Wolkins
Hoy	Woodruff
Kersey	Yount
Klinker	Mr. Speaker

Roll Call 27: 98 present; 2 excused. The Speaker announced a quorum in attendance. [NOTE: ☐ indicates those who were excused.]

## HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Tuesday, January 24, 2006 at 1:30 p.m.

KOCH

Motion prevailed.

## HOUSE BILLS ON SECOND READING

The following bills were called down by their respective authors, were read a second time by title, and, there being no amendments, were ordered engrossed: House Bills 1011, 1016, 1017, 1018, 1020, 1022, 1065, 1076, 1086, 1101, 1107, 1108, 1127, 1234, 1238, 1249, 1261, 1314, 1327, and 1418.

The House recessed until the fall of the gavel.

## RECESS

The House reconvened at 4:05 p.m. with the Speaker in the Chair.

Representative Cherry, who had been excused, was present.

## Reassignments

The Speaker announced the reassignment of House Bill 1285 from the Committee on Utilities and Transportation to the Committee on Environmental Affairs.

## Referrals to Ways and Means withdrawn

The Speaker announced that the referral of House Bill 1236 to the Committee on Ways and Means, pursuant to Rule 127, had been withdrawn.

## HOUSE BILLS ON SECOND READING

### House Bill 1007

Representative T. Harris called down House Bill 1007 for second reading. The bill was read a second time by title.

## HOUSE MOTION (Amendment 1007-3)

Mr. Speaker: I move that House Bill 1007 be amended to read as follows:

Page 10, between lines 2 and 3, begin a new paragraph and insert:  
"SECTION 5. IC 12-15-1-20 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 20. (a) As used in this section, "fund" refers to the health care fund established under subsection (b).**

**(b) The health care fund is established for the purpose of supporting the operations of the Medicaid program. The fund shall be administered by the office of the secretary. The office of the secretary may spend the money in the fund in accordance with this subsection.**

**(c) The fund consists of money received from payments by employers under IC 22-2-13.**

**(d) The expenses of administering the fund shall be paid from money in the fund.**

**(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same**

manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

(f) The money in the fund at the end of a state fiscal year does not revert to the state general fund.

(g) Money in the fund is continuously appropriated for the purposes described in subsection (b).

SECTION 6. IC 22-2-13 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

**Chapter 13. Employer Health Care Contributions**

**Sec. 1.** As used in this chapter, "commissioner" refers to the commissioner appointed under IC 22-1-1-2.

**Sec. 2.** As used in this chapter, "employer" means a private employer that employs at least five thousand (5,000) full time and part time employees.

**Sec. 3.** As used in this chapter, "health care costs" means the amount paid by an employer to provide coverage for health care services (as defined in IC 27-13-1-18) to employees in Indiana to the extent the costs are deductible under federal tax law.

**Sec. 4. (a)** On January 1 of each year, an employer shall submit to the commissioner, on a form and in a manner approved by the commissioner, the:

- (1) number of employees in Indiana on one (1) day, determined by the employer, during the immediately preceding calendar year;
- (2) amount spent by the employer during the immediately preceding calendar year on health care costs in Indiana; and
- (3) percentage of payroll that was spent by the employer during the immediately preceding calendar year on health care costs in Indiana.

**(b)** The information submitted under subsection (a) must:

- (1) be signed by the principal executive officer or an individual performing a similar function; and
- (2) include an affidavit under penalty of perjury that the information submitted:
  - (A) was reviewed by the individual signing the information under subdivision (1); and
  - (B) is true to the best of the individual's knowledge, information, and belief.

**Sec. 5.** When calculating the percentage of payroll under section 4(a)(3) of this chapter, an employer may exclude:

- (1) wages paid to an employee in excess of the median household income in Indiana as published by the United States Census Bureau; and
- (2) wages paid to an employee who is eligible for Medicare.

**Sec. 6. (a)** An employer shall do either of the following:

- (1) Spend on health care costs an amount equal to at least eight percent (8%) of the total wages paid by the employer to employees in Indiana.
- (2) If the employer spends less than the amount specified under subdivision (1), pay to the health care fund established by IC 12-15-1-20 an amount equal to the difference between the amount the employer spends and an amount equal to eight percent (8%) of the total wages paid by the employer to employees in Indiana.

**(b)** The difference paid to the health care fund under subsection (a)(2) must be paid on a periodic basis determined by the commissioner.

**(c)** An employer shall not deduct any payment made under subsection (a) from the wages of an employee.

**Sec. 7.** The commissioner shall impose on an employer that violates:

- (1) section 4(a) of this chapter a civil penalty of two hundred fifty dollars (\$250) for each day of noncompliance; and
- (2) section 6 of this chapter a civil penalty of two hundred fifty thousand dollars (\$250,000).

**Sec. 8.** Not later than March 15 of each year, the commissioner shall obtain and report to the governor and the legislative council in an electronic format under IC 5-14-6 the:

- (1) name of each employer in Indiana;
- (2) definition of "full time" and "part time" employee used by each employer;

**(3) number of full time employees:**

- (A) employed;
- (B) eligible to receive health insurance benefits provided; and
- (C) receiving health insurance benefits provided;

**by each employer;**

**(4) source of health insurance benefits for full time employees not receiving health insurance benefits provided by each employer;**

**(5) number of part time employees:**

- (A) employed;
- (B) eligible to receive health insurance benefits provided; and
- (C) receiving health insurance benefits provided;

**by each employer; and**

**(6) source of health insurance benefits for part time employees not receiving health insurance benefits provided by each employer;**

as of the day specified in section 4(a)(1) of this chapter.

**Sec. 9.** The commissioner shall annually, based on the information submitted under section 4 of this chapter:

- (1) verify the identity of employers in Indiana; and
- (2) ensure that employers in Indiana are in compliance with section 4 of this chapter.

**Sec. 10.** The commissioner shall adopt rules under IC 4-22-2 to implement this chapter."

Renumber all SECTIONS consecutively.

(Reference is to HB 1007 as printed January 20, 2006.)

FRY

Representative Whetstone rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was well taken and the motion was out of order.

**APPEAL OF THE RULING OF THE CHAIR**

Mr. Speaker: We hereby appeal the ruling of the Chair that Representative Fry's amendment (1007-3) is not germane to House Bill 1007.

Amendment 3 is germane to House Bill 1007 because both concern the legal obligations of businesses.

PELATH  
FRY

The Speaker yielded the gavel to the Speaker Pro Tempore, Representative Turner.

The question was, Shall the ruling of the Chair be sustained? Roll Call 28: yeas 49, nays 47. The ruling of the Chair was sustained.

The Speaker Pro Tempore yielded the gavel to the Speaker.

**HOUSE MOTION**  
(Amendment 1007-2)

Mr. Speaker: I move that House Bill 1007 be amended to read as follows:

Page 10, between lines 5 and 6, begin a new paragraph and insert: "SECTION 6. [EFFECTIVE JULY 1, 2006] (a) The governor and the commissioner of the department of state revenue shall take the steps necessary for Indiana to become a member of the Multistate Tax Commission (444 North Capital Street, NW, Suite 425, Washington, DC 20001-1538) and the Multistate Tax Compact. As provided in the Multistate Tax Compact, the commissioner of the department of state revenue or the commissioner's designee may serve as a member of the Multistate Tax Commission.

(b) The governor may appoint an advisory board of elected officials from Indiana's political subdivisions to advise the commissioner on matters related to the Multistate Tax Compact. Not more than the smallest possible majority of the members of the advisory group may be members of the same political party.

(c) There is appropriated the amount necessary to the department of state revenue from the state general fund to pay the dues and costs related to becoming a member of the Multistate Tax Commission, beginning July 1, 2005, and ending June 30, 2007.

(d) Not later than September 1, 2006, the commissioner of the department of state revenue shall submit a report to the general assembly in an electronic format under IC 5-14-6 identifying the statutory changes and appropriations necessary to participate as a full member of the Multistate Tax Commission and the Multistate Tax Compact."

Renumber all SECTIONS consecutively.  
(Reference is to HB 1007 as printed January 20, 2006.)

PELATH

Upon request of Representatives Pelath and Bauer, the Speaker ordered the roll of the House to be called. Roll Call 29: yeas 48, nays 49. Motion failed. The bill was ordered engrossed.

### House Bill 1009

Representative Torr called down House Bill 1009 for second reading. The bill was read a second time by title.

HOUSE MOTION  
(Amendment 1009-2)

Mr. Speaker: I move that House Bill 1009 be amended to read as follows:

Page 7, delete lines 8 through 9, begin a new paragraph and insert: "**Sec. 5. The population of a house or a senate district may not deviate from the ideal district population by more than one percent (1%) of the ideal district population.**"

Page 7, between lines 21 and 22, begin a new paragraph and insert: "**Sec. 8. Districts must not violate precinct boundaries.**"

Page 7, line 22, delete "8." and insert "9."

Page 7, line 23, delete "7" and insert "8".

(Reference is to HB 1009 as printed January 20, 2006.)

TORR

Motion prevailed.

HOUSE MOTION  
(Amendment 1009-3)

Mr. Speaker: I move that House Bill 1009 be amended to read as follows:

Page 5, line 35, delete "of" and insert "**house of representatives district.**"

Page 5, delete lines 36 through 39.

(Reference is to HB 1009 as printed January 20, 2006.)

DENBO

Upon request of Representatives Denbo and Dobis, the Speaker ordered the roll of the House to be called. Roll Call 30: yeas 48, nays 49. Motion failed.

HOUSE MOTION  
(Amendment 1009-1)

Mr. Speaker: I move that House Bill 1009 be amended to read as follows:

Page 7, between lines 34 and 35, begin a new paragraph and insert: "**Sec. 9. In evaluating plans for recommendation, the commission shall consider the effect that a plan has on language and racial minority groups.**"

(Reference is to HB 1009 as printed January 20, 2006.)

MESSER

Motion prevailed.

HOUSE MOTION  
(Amendment 1009-5)

Mr. Speaker: I move that House Bill 1009 be amended to read as follows:

Page 7, delete lines 5 through 6.

Page 7, line 7, delete "4." and insert "3."

Page 7, line 8, delete "5." and insert "4."

Page 7, line 10, delete "6." and insert "5."

Page 7, line 13, delete "7." and insert "6."

Page 7, line 22, delete "8." and insert "7."

Page 7, line 23, delete "7" and insert "6".

(Reference is to HB 1009 as printed January 20, 2006.)

DAY

Motion prevailed. The bill was ordered engrossed.

### House Bill 1025

Representative J. Smith called down House Bill 1025 for second reading. The bill was read a second time by title.

HOUSE MOTION  
(Amendment 1025-1)

Mr. Speaker: I move that House Bill 1025 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-9-7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. (a) The county treasurer shall establish an innkeeper's tax fund. The treasurer shall deposit in that fund all money received under section 6 of this chapter that is attributable to an innkeeper's tax rate that is not more than five percent (5%).

(b) Money in the innkeeper's tax fund shall be expended in the following order:

(1) Through July 1999, not more than the revenue needed to service bonds issued under IC 36-10-3-40 through IC 36-10-3-45 and outstanding on January 1, 1993, may be used to service bonds. The county auditor shall make a semiannual distribution, at the same time property tax revenue is distributed, to a park and recreation district that has issued bonds payable from a county innkeeper's tax. Each semiannual distribution must be equal to one-half (½) of the annual principal and interest obligations on the bonds. Money received by a park and recreation district under this subdivision shall be deposited in a special fund to be used to service the bonds. During August 1999 the money that had been set aside to cover bond payments that remains after the bonds have been retired plus sixty percent (60%) of the tax revenue during August 1999 through December 1999 shall be distributed to the county treasurer to be used by the county park board, subject to appropriation by the county fiscal body.

(2) To the commission for its general use in paying operating expenses and to carry out the purposes set forth in section 3(a)(6) of this chapter. However, the amount that may be distributed under this subdivision during any particular year may not exceed the proceeds derived from an innkeeper's tax of two percent (2%) through December 1999 and fifty percent (50%) of the tax revenue beginning January 2000 and continuing through December 2014.

(3) For the period beginning July 1, 2002, through December 2014, fifty percent (50%) of the revenue to the county treasurer to be credited by the treasurer to a special account. The county treasurer shall distribute money in the special account as follows:

(A) Seventy-five percent (75%) of the money in the special account shall be distributed to the department of natural resources for the development of projects in the state park on the county's largest river, including its tributaries.

(B) Twenty-five percent (25%) of the money in the special account shall be distributed to a community development corporation that serves a metropolitan area in the county that includes:

(i) a city having a population of more than fifty-five thousand (55,000) but less than fifty-nine thousand (59,000); and

(ii) a city having a population of more than twenty-eight thousand seven hundred (28,700) but less than twenty-nine thousand (29,000);

for the community development corporation's use in tourism, recreation, and economic development activities. For the period beginning July 1, 2002, and continuing through ~~December 2006~~, **December, 2014**, the community development corporation shall provide not less than forty percent (40%) of the money received from the special account under this clause as a grant to a nonprofit corporation that leases land in the state park described in this subdivision for the nonprofit corporation's use in noncapital projects in the state park. Money in the special account may not be used for any other purpose. The money credited to the

account that has not been used as specified in this subdivision by January 1, 2015, shall be transferred to the commission to be used to make grants as provided in subsection (c)(2).

(c) Money in the innkeeper's tax fund subject to appropriation by the county council shall be allocated and distributed after December 2014 as follows:

(1) Fifty percent (50%) of the revenue to the commission for the commission's general use in paying operating expenses and to carry out the purposes set forth in section 3(a)(6) of this chapter.

(2) The remainder to the commission to be used solely to make grants for the development of recreation and tourism projects. The commission shall establish and make public the criteria that will be used in analyzing and awarding grants. At least ten percent (10%) but not more than fifteen percent (15%) of the grants may be awarded for noncapital projects. Grants may be made only to the following entities upon application by the executive of the entity:

(A) The county for deposit in a special account.

(B) The most populated city in the county for deposit in a special account.

(C) The second most populated city in the county for deposit in a special account.

(D) The Tippecanoe County Wabash River parkway commission, but only so long as the interlocal agreement among the political subdivisions listed in clauses (A) through (C) is in effect. Money received by the parkway commission shall be segregated in a special account.

(d) Money credited to special accounts under subsection (c)(2) shall be used only for recreation or tourism projects, or both."

Re-number all SECTIONS consecutively.

(Reference is to HB 1025 as printed January 20, 2006.)

T. BROWN

Motion prevailed. The bill was ordered engrossed.

The members of the Committee on Rules and Legislative Procedures, Representatives Whetstone, Foley, T. Brown, Burton, Frizzell, Turner, Pelath, E. Harris, Oxley, and Stilwell, were excused for a committee meeting. Representative Friend was also excused.

### House Bill 1063

Representative Hinkle called down House Bill 1063 for second reading. The bill was read a second time by title.

#### HOUSE MOTION (Amendment 1063-1)

Mr. Speaker: I move that House Bill 1063 be amended to read as follows:

Page 4, line 36, after "a" insert "**manufacturing, wholesale, or**".

Page 4, line 39, delete "retail".

Page 4, line 39, delete "or".

Page 4, line 40, delete "." and insert "; **or**".

Page 4, between lines 40 and 41, begin a new line block indented and insert:

**"(3) the design, construction, ordering, or sale of:**

**(A) recreational vehicles;**

**(B) manufactured homes certified through the United States Department of Housing and Urban Development;**  
**or**

**(C) industrialized building systems certified through the department of homeland security."**

Page 5, delete lines 10 through 24, begin a new paragraph and insert:

**"Sec. 4. (a) "Interior design" means client consultation and preparation and administration of design documents relating to nonstructural and nonseismic interior elements of a building or structure. The scope of work provided by interior designers may include the following:**

**(1) Programming, the interview and analysis phase that develops the needs of clients.**

**(2) Space planning, the initial layout of an interior space.**

**(3) Demolition plans of nonstructural interior items as related to the project space.**

**(4) Reflected ceiling plans.**

**(5) Electrical and data outlet locations on construction plans.**

**(6) Casework:**

**(A) plans;**

**(B) elevations; and**

**(C) sections.**

**(7) Interior:**

**(A) equipment; and**

**(B) fixture;**

**location plans.**

**(8) Ergonomic evaluation of:**

**(A) environment; and**

**(B) furniture.**

**(9) Furniture:**

**(A) specifications; and**

**(B) location plans.**

**(10) Artwork, signage, and plant specifications and location plans.**

**(11) Contracting with consultants for:**

**(A) mechanical;**

**(B) plumbing;**

**(C) electrical;**

**(D) structural; and**

**(E) architectural;**

**services.**

**(12) Construction:**

**(A) administration; and**

**(B) observation;**

**as they apply to the project scope of work.**

**(b) Drawing, plans, specifications, and reports under this definition may include the following:**

**(1) Detailed dimensioned floor plans drawn to scale for all floors showing the following items:**

**(A) Wall configuration and fire rating.**

**(B) Exitways.**

**(C) Doors.**

**(D) Windows.**

**(E) Location of plumbing fixtures.**

**(F) Chairlifts.**

**(G) Elevators.**

**(H) Room designation.**

**(2) Fire and life safety plans, including those provided by contracted professionals. Fire and life safety plans must show graphically or by legend the location and rating of building elements, such as the following:**

**(A) Area separation walls.**

**(B) Occupancy separation walls.**

**(C) Smoke barriers.**

**(D) Fire-rated corridor walls.**

**(E) Stair enclosures.**

**(F) Shaft enclosures.**

**(G) Horizontal exits.**

**(3) Sections and details of interior walls showing dimensions and materials.**

**(4) Details indicating how required structural and fire-resistive integrity will be maintained where wall, floor, and ceiling penetrations will be made for the location of:**

**(A) electrical;**

**(B) mechanical;**

**(C) plumbing;**

**(D) communications conduit;**

**(E) pipes; and**

**(F) similar;**

**systems.**

**(5) Room finish schedules showing finishes for walls, ceilings, and floors in the following:**

**(A) All rooms.**

**(B) Stairways.**

**(C) Corridors.**

**(6) Door schedules that show:**

**(A) material;**

**(B) size;**

**(C) thickness; and**

- (D) fire resistance rating; for all doors, frames, and hardware.
- (7) Accessibility details that include the following:
  - (A) Interior ramps with slopes.
  - (B) Dimensioned restroom plans and clearances.
  - (C) Grab bars.
  - (D) Door swing and size.
  - (E) Special seating accommodations.
- (c) For purposes of this definition, drawings, plans, specifications, and reports for the following may be included in the set of drawings as submitted for design release if stamped by the appropriate professional as otherwise provided in this title:
  - (1) A site plan drawn to scale, showing the dimensioned location of building property lines and all buildings adjacent to the property, as well as the width of streets or easements bordering the property.
  - (2) Foundation and basement plans.
  - (3) Wall elevations of all exterior walls.
  - (4) Sections and details of exterior walls and roof showing the following:
    - (A) Dimensions.
    - (B) Materials.
    - (C) Heat transfer ratings.
  - (5) Structural plans and elevations showing:
    - (A) the size and location of all members;
    - (B) truss designs showing all connection details; and
    - (C) all stress calculations, if specifically requested.
  - (6) Electrical plans showing the following:
    - (A) Electrical distribution system.
    - (B) Service equipment.
    - (C) Grounding methods.
    - (D) Emergency and standby power systems.
    - (E) Any power or lighting information required for compliance with the Indiana Energy Conservation Code under 675 IAC 19.
  - (7) Plumbing plans showing the following:
    - (A) Risers.
    - (B) Drains.
    - (C) Piping isometrics.
  - (8) Mechanical plans showing the following:
    - (A) Location and size of ductwork.
    - (B) Equipment.
    - (C) Fire dampers.
    - (D) Smoke dampers.
    - (E) Equipment schedules showing capacity.
  - (9) Energy conservation details, including the following:
    - (A) Design criteria.
    - (B) Exterior envelope component materials.
    - (C) U values of the envelope system.
    - (D) R values of the insulating materials.
    - (E) Size and type of equipment.
    - (F) Systems controls.
  - (10) Plans for automatic fire extinguishing systems showing the following:
    - (A) Automatic sprinkler piping size and spacing.
    - (B) Standpipes.
    - (C) Fire pumps.
    - (D) Water supply data.
    - (E) Rating of sprinkler heads.
    - (F) Other specific requirements contained in NFPA Standards 11, 12, 13, 13R, 14, 20, and 2001 as adopted in 675 IAC 13.
  - (11) Plans for fire protection and alarms systems showing the following:
    - (A) The location and type of detection activation devices, whether automatic or manual.
    - (B) Control panels.
    - (C) Annunciator panels and zones.
    - (D) Water flow devices.
    - (E) Other specific requirements contained in NFPA Standard 72 as adopted in 675 IAC 22.
  - (12) Plans for public swimming pools showing the following:
    - (A) Area and volume.
    - (B) Enclosure for the pool area.

- (C) Turnover rate.
- (D) Filtration and circulation system.
- (E) Swimmer load.
- (F) Materials.
- (G) Shape and depth of pool.
- (H) Deck design.
- (I) Ladders.
- (J) Steps.
- (K) Drainage system.
- (L) Water supply system.
- (M) Electrical system."

Page 6, line 4, delete "a".

Page 6, line 4, delete "design that" and insert "location plans for items that are visible in the ceiling, including but not limited to the following:

- (1) Ceiling materials.
- (2) Bulkheads.
- (3) Light fixtures.
- (4) Speakers.
- (5) Exit signs as required by code."

Page 6, delete lines 5 through 6.

Page 6, delete lines 11 through 13.

Page 8, line 26, after "permit," insert "design release, or other approval necessary for the project,".

Page 11, between lines 12 and 13, begin a new paragraph and insert:

"Sec. 1. A person may practice interior design if the person has not been registered with the secretary of state under this article if the person does not use a title, designation sign, card, or device under section 2(a) of this chapter."

Page 11, line 13, delete "1." and insert "2."

Page 11, line 30, delete "2." and insert "3."

Page 11, line 32, delete "1(b)" and insert "2(b)".

Page 11, line 33, delete "3." and insert "4."

Page 11, line 35, delete "1(a)" and insert "2(a)".

Page 11, line 36, delete "4." and insert "5."

(Reference is to HB 1063 as printed January 20, 2006.)

HINKLE

The Speaker ordered a division of the House and appointed Representatives Pond and Dobis to count the yeas and nays. Yeas 43, nays 41. Motion prevailed. The bill was ordered engrossed.

### House Bill 1339

Representative T. Harris called down House Bill 1339 for second reading. The bill was read a second time by title.

HOUSE MOTION  
(Amendment 1339-1)

Mr. Speaker: I move that House Bill 1339 be amended to read as follows:

Page 3, line 32, delete "an interagency cooperation" and insert "a memorandum of understanding".

Page 3, line 33, delete "agreement".

Page 3, line 35, delete "interagency cooperation agreement" and insert "memorandum of understanding".

Page 3, line 42, delete "." and insert "without compensation."

Page 4, line 20, delete "relating" and insert "pertaining".

Page 4, line 20, delete "offer of a" and insert "subject".

Page 4, line 27, after "the" insert "performance of those duties by the".

Page 4, line 27, delete "have" and insert "constitute".

Page 4, line 28, delete "relationship with the seller, landlord, buyer, or tenant as a" and insert "relationship".

Page 4, delete line 29, begin a new paragraph and insert:

"(d) This section does not prohibit a licensee from performing duties in addition to the duties specified in this section on behalf of or at the request of a seller, landlord, buyer, or tenant in a real estate transaction."

(Reference is to HB 1339 as printed January 20, 2006.)

T. HARRIS

Motion prevailed. The bill was ordered engrossed.

**House Bill 1380**

Representative J. Smith called down House Bill 1380 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

**REPORTS FROM COMMITTEES****COMMITTEE REPORT**

Mr. Speaker: Your Committee on Public Policy and Veterans Affairs, to which was referred House Bill 1098, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 8, line 41, delete "or".

Page 8, line 42, delete "therapist." and insert "**therapist, or a nurse.**".

Page 9, delete lines 1 through 9.

Page 9, line 10, delete "(3)" and insert "(2)".

Page 9, line 18, delete "(4)" and insert "(3)".

Page 9, line 31, delete "(5)" and insert "(4)".

Page 10, line 25, delete "massage or" and insert "**massage,**".

Page 10, line 25, delete "therapy;" and insert "**therapy, or body work;**".

Page 11, line 29, delete "appointed." and insert "**appointed and qualified under this chapter.**".

Page 12, line 15, after "licensees" insert "**under IC 4-21.5**".

Page 14, line 30, delete "Upon receipt of an application" and insert "**an applicant**".

Page 14, line 30, after "endorsement" insert "**shall cause each jurisdiction that previously credentialed the applicant to provide the board with the applicant's current status in the jurisdiction.**".

Page 14, delete lines 31 through 33.

Page 15, line 9, after "years." insert "**A license expires at midnight on the date established by the licensing agency under IC 25-1-6-4 and every two (2) years thereafter, unless renewed before that date.**".

Page 15, delete lines 39 through 42.

Page 16, delete lines 1 through 9.

(Reference is to HB 1098 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 2.

STUTZMAN, Chair

Report adopted.

**COMMITTEE REPORT**

Mr. Speaker: Your Committee on Public Policy and Veterans Affairs, to which was referred House Bill 1190, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 7.1-1-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. ~~Construction:~~ (a) This title is an exercise of the police powers of the state.

(b) The classifications and differentiations made in this title are real and are actually and substantially related to the accomplishment of the purposes of this title.

(c) The provisions of this title shall be ~~liberally construed so as to effectuate the purposes of this title:~~ **strictly construed. The words used in this title shall be interpreted according to their literal meanings.**

(d) **In accordance with IC 1-1-1-8, if any provision of this title is held to be invalid or unconstitutional, it is the intention of the state that the remaining provisions of this title shall be construed to:**

(1) **further limit rather than expand commerce in alcoholic beverages; and**

(2) **maintain a transparent and accountable three (3) tier system of alcoholic beverage distribution by a person with a substantial presence in Indiana.**

SECTION 2. IC 7.1-1-3-44 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 44. The term "farm winery" means a commercial winemaking establishment that produces

wine from products allowed by and meets the requirements of IC 7.1-3-12-4.

SECTION 3. IC 7.1-3-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. The commission may issue a farm winery permit to a person who:

(1) is the proprietor of a farm winery; ~~and who~~

(2) desires to commercially manufacture wine; and

(3) **is either:**

(A) **an individual; or**

(B) **a partnership, limited liability company, or corporation domiciled in or admitted to do business in Indiana.**

A farm winery permit shall be valid from July 1, of the then current year to June 30, of the following year. IC 7.1-3-21-5 does not apply to a farm winery permit issued under this chapter. ~~The commission may not issue a farm winery permit to a person who has not been a continuous and bona fide resident of Indiana for at least one (1) year preceding the date of the application for a farm winery permit.~~

SECTION 4. IC 7.1-3-12-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) In order to be considered a "farm winery" within the meaning of this title and to be eligible to receive a farm winery permit, a wine-making establishment

(1) ~~must produce wine from grapes, other fruits, or honey produced in this state; and~~

(2) ~~shall not annually produce more than five hundred thousand (500,000) gallons of wine.~~

(b) Table wine that is shipped by the winery outside the state and that involves a change of ownership may not be considered as part of the winery's annual production for purposes of subsection (a)(2): (a)."

Page 1, between lines 9 and 10, begin a new line block indented and insert:

"(4) **is entitled to sell the winery's wine to consumers by the bottle at a farmers' market that is operated on a nonprofit basis;**".

Page 1, line 10, strike "(4)" and insert "(5)".

Page 1, line 13, strike "(5)" and insert "(6)".

Page 1, line 14, strike "(6)" and insert "(7)".

Page 1, line 16, strike "(7)" and insert "(8)".

Page 2, line 4, strike "(8)" and insert "(9)".

Page 2, line 5, strike "and".

Page 2, line 6, strike "(9)" and insert "(10)".

Page 2, line 7, after "Sunday" delete "." and insert "; **and**".

Page 2, between lines 7 and 8, begin a new line block indented and insert:

"(11) **is entitled to sell and ship the farm winery's wine to a person located in another state in accordance with the laws of the other state.**".

Page 2, line 9, strike "a second location" and insert "**not more than three (3) additional locations**".

Page 2, line 9, strike "is" and insert "**are**".

Page 2, line 10, strike "second location," and insert "**additional locations,**".

Page 2, line 18, strike "nine (9)" and insert "**thirty (30)**".

Page 2, after line 19, begin a new paragraph and insert:

"SECTION 6. IC 7.1-3-13-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) **Subject to subsection (c),** the commission may issue a wine wholesaler's permit to sell wine, or wine and brandy, at wholesale to a person who:

(1) notwithstanding IC 7.1-5-9-4, holds a beer wholesaler's permit;

(2) holds a liquor wholesaler's permit; or

(3) does not hold an alcoholic beverage wholesaler's permit, but meets the qualifications to hold either a beer or a liquor wholesaler's permit.

(b) The holder of a wine wholesaler's permit under subsection (a)(1) or (a)(2):

(1) is considered the same as a person who holds a wine wholesaler's permit under subsection (a)(3) for purposes of conducting activities and operations under the wine wholesaler's permit; and

(2) may operate the beer or liquor wholesale business independently of the wine wholesale business.

(c) After June 30, 2006, the commission may issue a wine wholesaler's permit or renew a wine wholesaler's permit only if the applicant for the permit or renewal permit:

(1) consents to pick up shipments from a farm winery for delivery to a retailer for a consumer who has ordered the wine from the farm winery; and

(2) agrees to pick up wine from a farm winery under the following conditions:

(A) makes the pickup on the premises of the farm winery or accept shipment from the farm winery;

(B) makes the pick up not later than two (2) business days after the farm winery makes the request for the pickup; and

(C) delivers the wine to the package liquor store not more than five (5) business days after the date on which the wine is picked up for delivery.

(d) The holder of a wholesaler's permit under this section may charge a farm winery:

(1) all costs associated with a transaction described in subsection (c); and

(2) a fee to be set by the commission that may not be less than two dollars (\$2) per bottle or four dollars (\$4) per case of wine delivered.

(e) The package liquor store that receives the wine from the wholesaler under subsection (c) may charge the consumer a fee not to exceed two dollars (\$2) per bottle or four dollars (\$4) per case of wine.

(f) If there is a dispute between a farm winery and a wholesale permit holder under this section, either party may submit the dispute to the commission to be decided under IC 4-21.5.

SECTION 7. IC 7.1-3-12-6 IS REPEALED [EFFECTIVE JULY 1, 2006]."

Renumber all SECTIONS consecutively.

(Reference is to HB 1190 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

STUTZMAN, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1214, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 29, after "with a" insert "**regulated public**".

Page 2, line 30, after "utility" insert "**, including an energy utility**".

Page 2, line 30, delete "IC 8-1-1.1-1)" and insert "**IC 8-1-2.5-2) or an affiliate of an energy utility**".

Page 2, line 31, delete "product or" and insert "**utility product**".

Page 2, line 31, delete "service" and insert "**service, or business operation. For purposes of this subdivision, a contract relates to a utility product, service, or business operation if it involves an activity necessary for or ancillary to the production or delivery of heat, power and light, or a product or service**".

Page 2, line 32, delete "." and insert "**(as described in IC 8-1-1)**".

(Reference is to HB 1214 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

DUNCAN, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1300, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 10, nays 0.

DUNCAN, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1323, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 17, strike "9." and insert "**15, then north on Highway 15 to the Michigan state line**".

Page 2, delete lines 21 through 26.

(Reference is to HB 1323 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 0.

DUNCAN, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1331, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 11, nays 0.

DUNCAN, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy and Veterans Affairs, to which was referred House Bill 1396, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 9, between lines 33 and 34, begin a new paragraph and insert:

"**Sec. 20.5. "Member" means any of the following:**

(1) An individual entitled to membership in a qualified organization under the bylaws, articles of corporation, charter, or rules of the qualified organization.

(2) A member of the qualified organization's auxiliary.

(3) In the case of a qualified organization that is a nonpublic school (as defined in IC 20-18-2-12), either of the following:

(A) A parent of a child enrolled in the school.

(B) A member of the school's parent organization.

(C) A member of the school's alumni association."

Page 14, line 7, after "(b)" delete "The" and insert "**Except as provided in subsection (c), the**".

Page 14, between lines 29 and 30, begin a new paragraph and insert:

"(c) This subsection applies only to a qualified organization that conducts only one (1) allowable event in a calendar year. The commission may not require the inclusion in the qualified organization's application of the Social Security numbers of the workers who will participate in the qualified organization's proposed allowable event. A qualified organization that files an application described in this subsection must attach to the application a sworn statement signed by the presiding officer and secretary of the organization attesting that the organization has not conducted any other allowable events in the calendar year."

Page 19, between lines 2 and 3, begin a new paragraph and insert:

"**Sec 16. A qualified organization described in section 4(c) of this chapter may not require an individual who wishes to participate in the qualified organization's allowable event as a worker to submit the individual's Social Security number to the qualified organization.**"

Page 41, after line 4, begin a new paragraph and insert:

"**SECTION 17. [EFFECTIVE JULY 1, 2006] (a) Before September 1, 2006, the Indiana gaming commission shall amend forms and affidavits prescribed by the department of state revenue under IC 4-32 (before its repeal) to comply with IC 4-32.2-4-4 and IC 4-32.2-4-16, both as added by this act.**

(b) This SECTION expires January 1, 2007."

Renumber all SECTIONS consecutively.

(Reference is to HB 1396 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 0.

STUTZMAN, Chair

Report adopted.

The House recessed until the fall of the gavel.

## RECESS

The House reconvened at 8:10 p.m. with the Speaker in the Chair.

Representative Friend and the members of the Committee on Rules and Legislative Procedures, Representatives Whetstone, Foley, T. Brown, Burton, Frizzell, Turner, Pelath, E. Harris, Oxley, and Stilwell, who had been excused, were present.

### MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Engrossed Senate Bills 42, 84, and 172 and the same are herewith transmitted to the House for further action.

MARY C. MENDEL  
Principal Secretary of the Senate

## HOUSE BILLS ON SECOND READING

### House Bill 1362

Representative Buck called down House Bill 1362 for second reading. The bill was read a second time by title.

#### HOUSE MOTION (Amendment 1362-4)

Mr. Speaker: I move that House Bill 1362 be amended to read as follows:

Page 15, line 14, delete "The vote of voters of a reorganizing political" and insert **"The vote of voters of a reorganizing political subdivision (for example, a township) who also are voters in a second reorganizing political subdivision (for example, a county) that is geographically larger than the first political subdivision and that includes the territory of the first political subdivision shall be included only in the tally of votes for the first reorganizing political subdivision in which the voters reside."**

Page 15, delete lines 15 through 18.

(Reference is to HB 1362 as printed January 20, 2006.)

BUCK

Motion prevailed.

#### HOUSE MOTION (Amendment 1362-5)

Mr. Speaker: I move that House Bill 1362 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 3-5-2-49.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: **Sec. 49.1. "Township" means the following:**

- (1) A township in a county not having a consolidated city.
- (2) A township district (as defined in IC 36-6-4.1-5) in a county having a consolidated city.

SECTION 2. IC 3-8-1-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 30. A candidate for the office of **small claims judge of a small claims court (as defined in IC 33-33-49-5.2)** must:

- (1) be a United States citizen upon taking office;
- (2) either:
  - (A) have resided in the township from which the candidate is elected for at least one (1) year upon taking office; or
  - (B) have been elected as a small claims court judge in the township before 1999;
- (3) be of high moral character and reputation; and
- (4) be admitted to the practice of law in Indiana upon filing a declaration of candidacy or petition of nomination or upon the

filing of a certificate of candidate selection under IC 3-13-1-15 or IC 3-13-2-8.

SECTION 3. IC 3-8-1-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 31. A candidate for the office of **small claims constable of a small claims court** must:

- (1) have resided in the township for more than one (1) year upon taking office; and
- (2) be at least twenty-one (21) years old upon taking office.

SECTION 4. IC 3-8-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 5. A declaration of candidacy for:

- (1) a federal office;
- (2) a state office;
- (3) a legislative office; or
- (4) the local office of:
  - (A) judge of a circuit, superior, probate, or county or small claims court; or
  - (B) prosecuting attorney of a judicial circuit;

shall be filed with the secretary of state.

SECTION 5. IC 3-10-1-19, AS AMENDED BY P.L.221-2005, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 19. (a) The ballot for a primary election shall be printed in substantially the following form for all the offices for which candidates have qualified under IC 3-8:

#### OFFICIAL PRIMARY BALLOT

Party

For paper ballots, print: To vote for a person, make a voting mark (X or ✓) on or in the box before the person's name in the proper column. For punch card ballots, print: To vote for a person, punch through the chad before the number assigned to the person's name in the proper column. For optical scan ballots, print: To vote for a person, darken or shade in the circle, oval, or square (or draw a line to connect the arrow) that precedes the person's name in the proper column. For optical scan ballots that do not contain a candidate's name, print: To vote for a person, darken or shade in the oval that precedes the number assigned to the person's name in the proper column. For electronic voting systems, print: To vote for a person, touch the screen (or press the button) in the location indicated.

Vote for one (1) only

Representative in Congress

- (1) AB \_\_\_\_\_
- (2) CD \_\_\_\_\_
- (3) EF \_\_\_\_\_
- (4) GH \_\_\_\_\_

(b) The offices with candidates for nomination shall be placed on the primary election ballot in the following order:

- (1) Federal and state offices:
  - (A) President of the United States.
  - (B) United States Senator.
  - (C) Governor.
  - (D) United States Representative.
- (2) Legislative offices:
  - (A) State senator.
  - (B) State representative.
- (3) Circuit offices and county judicial offices:
  - (A) Judge of the circuit court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the circuit court.
  - (B) Judge of the superior court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the superior court.
  - (C) Judge of the probate court.
  - (D) Judge of the county court, with each division separate, as required by IC 33-30-3-3.
  - (E) Prosecuting attorney.
  - (F) Circuit court clerk.
- (4) County offices:
  - (A) County auditor.
  - (B) County recorder.
  - (C) County treasurer.
  - (D) County sheriff.
  - (E) County coroner.
  - (F) County surveyor.

- (G) County assessor.
  - (H) County commissioner.
  - (I) County council member.
  - (5) Township offices:
    - (A) Township assessor.
    - (B) Township trustee.
    - (C) Township board member.
    - (D) ~~Small claims judge. of the small claims court.~~
    - (E) ~~Small claims constable. of the small claims court.~~
  - (6) City offices:
    - (A) Mayor.
    - (B) Clerk or clerk-treasurer.
    - (C) Judge of the city court.
    - (D) City-county council member or common council member.
  - (7) Town offices:
    - (A) Clerk-treasurer.
    - (B) Judge of the town court.
    - (C) Town council member.
- (c) The political party offices with candidates for election shall be placed on the primary election ballot in the following order after the offices described in subsection (b):
- (1) Precinct committeeman.
  - (2) State convention delegate.
- (d) The following offices and public questions shall be placed on the primary election ballot in the following order after the offices described in subsection (c):
- (1) School board offices to be elected at the primary election.
  - (2) Other local offices to be elected at the primary election.
  - (3) Local public questions.
- (e) The offices and public questions described in subsection (d) shall be placed:
- (1) in a separate column on the ballot if voting is by paper ballot;
  - (2) after the offices described in subsection (c) in the form specified in IC 3-11-13-11 if voting is by ballot card; or
  - (3) either:
    - (A) on a separate screen for each office or public question; or
    - (B) after the offices described in subsection (c) in the form specified in IC 3-11-14-3.5;
- if voting is by an electronic voting system.
- (f) A public question shall be placed on the primary election ballot in the following form:
- (The explanatory text for the public question,  
if required by law.)
- "Shall (insert public question)?"

- YES
- NO

SECTION 6. IC 3-10-2-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 13. The following public officials shall be elected at the general election before their terms of office expire and every four (4) years thereafter:

- (1) Clerk of the circuit court.
- (2) County auditor.
- (3) County recorder.
- (4) County treasurer.
- (5) County sheriff.
- (6) County coroner.
- (7) County surveyor.
- (8) County assessor.
- (9) County commissioner.
- (10) County council member.
- (11) Township trustee.
- (12) Township board member.
- (13) Township assessor.
- (14) ~~Small claims judge. of a small claims court.~~
- (15) ~~Small claims constable. of a small claims court.~~

SECTION 7. IC 3-11-2-12, AS AMENDED BY P.L.2-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 12. The following offices shall be placed on the general election ballot in the following order:

- (1) Federal and state offices:

- (A) President and Vice President of the United States.
- (B) United States Senator.
- (C) Governor and lieutenant governor.
- (D) Secretary of state.
- (E) Auditor of state.
- (F) Treasurer of state.
- (G) Attorney general.
- (H) Superintendent of public instruction.
- (I) United States Representative.
- (2) Legislative offices:
  - (A) State senator.
  - (B) State representative.
- (3) Circuit offices and county judicial offices:
  - (A) Judge of the circuit court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the circuit court.
  - (B) Judge of the superior court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the superior court.
  - (C) Judge of the probate court.
  - (D) Judge of the county court, with each division separate, as required by IC 33-30-3-3.
  - (E) Prosecuting attorney.
  - (F) Clerk of the circuit court.
- (4) County offices:
  - (A) County auditor.
  - (B) County recorder.
  - (C) County treasurer.
  - (D) County sheriff.
  - (E) County coroner.
  - (F) County surveyor.
  - (G) County assessor.
  - (H) County commissioner.
  - (I) County council member.
- (5) Township offices:
  - (A) Township assessor.
  - (B) Township trustee.
  - (C) Township board member.
  - (D) ~~Small claims judge. of the small claims court.~~
  - (E) ~~Small claims constable. of the small claims court.~~
- (6) City offices:
  - (A) Mayor.
  - (B) Clerk or clerk-treasurer.
  - (C) Judge of the city court.
  - (D) City-county council member or common council member.
- (7) Town offices:
  - (A) Clerk-treasurer.
  - (B) Judge of the town court.
  - (C) Town council member.

SECTION 8. IC 3-13-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 15. (a) A county chairman filling a candidate vacancy under section 6(a)(2) of this chapter or the chairman of a meeting filling a candidate vacancy under this chapter shall file a written certificate of candidate selection on a form prescribed by the commission stating the following information for each candidate selected:

- (1) The name of each candidate as:
    - (A) the candidate wants the candidate's name to appear on the ballot; and
    - (B) the candidate's name is permitted to appear on the ballot under IC 3-5-7.
  - (2) The residence address of each candidate.
- (b) The certificate shall be filed with:
- (1) the election division for:
    - (A) a committee acting under section 3, 4, 5, or 6(b) of this chapter; or
    - (B) a committee acting under section 6(a) of this chapter to fill a candidate vacancy in the office of judge **or small claims judge** of a circuit, superior, probate, **or county or small claims** court or prosecuting attorney; or
  - (2) the circuit court clerk, for a committee acting under section 6(a) of this chapter to fill a candidate vacancy for a local office

not described in subdivision (1).

(c) This subsection applies to a candidate vacancy resulting from a vacancy on the primary election ballot as described in section 2 of this chapter. The certificate required by subsection (a) shall be filed not later than noon July 3 before election day.

(d) This subsection applies to all candidate vacancies not described by subsection (c). The certificate required by subsection (a) shall be filed not more than three (3) days (excluding Saturdays and Sundays) after selection of the candidates.

SECTION 9. IC 3-13-2-8, AS AMENDED BY P.L.2-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 8. (a) The chairman or chairmen filling a candidate vacancy under this chapter shall immediately file a written certificate of candidate selection on a form prescribed by the commission stating the following information for each candidate selected:

(1) The name of each candidate as:

(A) the candidate wants the candidate's name to appear on the ballot; and

(B) the candidate's name is permitted to appear on the ballot under IC 3-5-7.

(2) The residence address of each candidate.

(b) The certificate shall be filed with:

(1) the election division for:

(A) one (1) or more chairmen acting under section 2, 3, 4, or 5(b) of this chapter; or

(B) a committee acting under section 5(b) of this chapter to fill a candidate vacancy for the office of judge **or small claims judge** of a circuit, superior, probate, **or county or small claims** court or prosecuting attorney; or

(2) the circuit court clerk of the county in which the greatest percentage of the population of the election district is located, for a chairman acting under section 5(a) of this chapter to fill a candidate vacancy for a local office not described in subdivision (1).

(c) The certificate required by subsection (a) shall be filed not more than three (3) days (excluding Saturdays and Sundays) after selection of the candidate.

SECTION 10. IC 3-13-10-5, AS AMENDED BY P.L.119-2005, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 5. (a) This section applies to a vacancy in the office of **small claims judge of a small claims court** or small claims **court** constable not covered by section 1 of this chapter.

(b) A vacancy shall be filled by the ~~township board at a regular or special meeting. The chairman of the township board shall give notice of the meeting. Except as provided in subsection (c), the meeting shall be held not later than thirty (30) days after the vacancy occurs. The notice must:~~

~~(1) be in writing;~~

~~(2) state the purpose of the meeting;~~

~~(3) state the date, time, and place of the meeting; and~~

~~(4) be sent by first class mail to each board member at least ten (10) days before the meeting.~~

~~(c) If a vacancy exists because of the death of a judicial officer, the meeting required by subsection (b) shall be held not later than thirty (30) days after the chairman of the township board receives notice of the death under IC 5-8-6. The chairman of the township board may not give the notice required by subsection (b) until the chairman of the township board receives notice of the death under IC 5-8-6.~~  
**mayor of the consolidated city.**

SECTION 11. IC 5-4-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 4. (a) As used in this section, "political subdivision" has the meaning set forth in IC 36-1-2-13.

(b) The copy of the oath under section 2 of this chapter shall be deposited by the person as follows:

(1) Of all officers whose oath is endorsed on or attached to the commission and whose duties are not limited to a particular county or of a justice, judge, or prosecuting attorney, in the office of the secretary of state.

(2) Of the circuit court clerk, officers of a political subdivision or school corporation, and **small claims** constables, ~~of a small~~

~~claims court~~, in the circuit court clerk's office of the county containing the greatest percentage of the population of the political subdivision or school corporation.

(3) Of a deputy prosecuting attorney, in the office of the clerk of the circuit court of the county in which the deputy prosecuting attorney resides or serves.

SECTION 12. IC 5-8-3.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. (a) An officer who wants to resign shall give written notice of the officer's resignation as follows:

(1) The governor and lieutenant governor shall notify the principal clerk of the house of representatives and the principal secretary of the senate to act in accordance with Article 5, Section 10 of the Constitution of the State of Indiana. The clerk and the secretary shall file a copy of the notice with the office of the secretary of state.

(2) A member of the general assembly shall notify the following, whichever applies:

(A) A member of the senate shall notify the president pro tempore of the senate.

(B) A member of the house of representatives shall notify the speaker of the house of representatives.

(3) The following officers commissioned by the governor under IC 4-3-1-5 shall notify the governor:

(A) An elector or alternate elector for President and Vice President of the United States.

(B) The secretary of state, auditor of state, treasurer of state, superintendent of public instruction, or attorney general.

(C) An officer elected by the general assembly, the senate, or the house of representatives.

(D) A justice of the Indiana supreme court, judge of the Indiana court of appeals, or judge of the Indiana tax court.

(E) A judge **or small claims judge** of a circuit, city, county, probate, superior, **or town or township small claims** court.

(F) A prosecuting attorney.

(G) A circuit court clerk.

(H) A county auditor, county recorder, county treasurer, county sheriff, county coroner, or county surveyor.

(4) An officer of a political subdivision (as defined by IC 36-1-2-13) other than an officer listed in subdivision (3) shall notify the circuit court clerk of the county containing the largest percentage of population of the political subdivision.

(5) An officer not listed in subdivisions (1) through (4) shall notify the person or entity from whom the officer received the officer's appointment.

(b) A person or an entity that receives notice of a resignation and does not have the power to fill the vacancy created by the resignation shall, not later than seventy-two (72) hours after receipt of the notice of resignation, give notice of the vacancy to the person or entity that has the power to:

(1) fill the vacancy; or

(2) call a caucus for the purpose of filling the vacancy.

SECTION 13. IC 5-10.1-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 6. "Governing body" means the fiscal body of a county, city, town, ~~or township, or township district~~, a trustee, the township board, board of school commissioners, library board, or any board which by law is authorized to fix a rate of taxation on property of a political subdivision, or any other board which is empowered to administer the affairs of any department of, or associated with, a political subdivision, which department receives revenue independently of, or in addition to, funds obtained from taxation.

SECTION 14. IC 5-10.1-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 7. Political Subdivision. "Political subdivision" as used in this article means a county, city, town, township, **township district**, political body corporate, political entity, local housing authority, public school corporation, public library, public utility of a county, city, town, or township whether the public utility is operated by the city or town or under the terms of a trusteeship for the benefit of the city or town, and a department of, or associated with, a county, city, town, or township, which department receives revenue independently of, or in addition to, funds obtained through taxation. A state agency or a judicial

circuit may not be construed as a political subdivision.

SECTION 15. IC 6-1.1-1.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]:

**Chapter 1.5. County Assessor Performs Township Assessor Duties**

**Sec. 1. In a county having a consolidated city, the county assessor has the same duties and responsibilities for the county that the township assessor in a county that does not have a consolidated city has for the township.**

SECTION 16. IC 6-1.1-3-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 17. (a) On or before June 1 of each year, each township assessor of a county **not having a consolidated city** shall deliver to the county assessor a list which states by taxing district the total of the personal property assessments as shown on the personal property returns filed with the **township** assessor on or before the filing date of that year. ~~and in a county with a township assessor under IC 36-6-5-1 in every township the township assessor shall deliver the lists to the county auditor as prescribed in subsection (b):~~

(b) On or before July 1 of each year, each county assessor shall certify to the county auditor the assessment value of the personal property in every taxing district.

(c) The department of local government finance shall prescribe the forms required by this section.

SECTION 17. IC 6-1.1-4-13.8, AS AMENDED BY P.L.228-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 13.8. (a) As used in this section, "commission" refers to a county land valuation commission established under subsection (b).

(b) Subject to subsection (l), a county land valuation commission is established in each county for the purpose of determining the value of commercial, industrial, and residential land (including farm homesites) in the county.

(c) The county assessor is chairperson of the commission.

(d) The following are members of the commission:

(1) The county assessor. The county assessor shall cast a vote only to break a tie.

(2) **Except in a county having a consolidated city**, each township assessor, when the respective township land values for that township assessor's township are under consideration. A township assessor serving under this subdivision shall vote on all matters relating to the land values of that township assessor's township.

(3) **Except in a consolidated city**, one (1) township assessor from the county to be appointed by a majority vote of all the township assessors in the county.

(4) One (1) county resident who:

(A) holds a license under IC 25-34.1-3 as a salesperson or broker; and

(B) is appointed by:

(i) the board of commissioners (as defined in IC 36-3-3-10) for a county having a consolidated city; or

(ii) the county executive (as defined in IC 36-1-2-5) for a county not described in item (i).

(5) Four (4) individuals who:

(A) are appointed by the county executive (as defined in IC 36-1-2-5); and

(B) represent one (1) of the following four (4) kinds of land in the county:

(i) Agricultural.

(ii) Commercial.

(iii) Industrial.

(iv) Residential.

Each of the four (4) kinds of land in the county must be represented by one (1) individual appointed under this subdivision.

(6) One (1) individual who:

(A) represents financial institutions in the county; and

(B) is appointed by:

(i) the board of commissioners (as defined in IC 36-3-3-10) for a county having a consolidated city; or

(ii) the county executive (as defined in IC 36-1-2-5) for a

county not described in item (i).

(e) The term of each member of the commission begins November 1 of the year that precedes by two (2) years the year in which a general reassessment begins under IC 6-1.1-4-4, and ends January 1 of the year in which the general reassessment begins under IC 6-1.1-4-4. The appointing authority may fill a vacancy for the remainder of the vacated term.

(f) The commission shall determine the values of all classes of commercial, industrial, and residential land (including farm homesites) in the county using guidelines determined by the department of local government finance. Not later than November 1 of the year preceding the year in which a general reassessment begins, the commission determining the values of land shall submit the values, all data supporting the values, and all information required under rules of the department of local government finance relating to the determination of land values to the county property tax assessment board of appeals and the department of local government finance. Not later than January 1 of the year in which a general reassessment begins, the county property tax assessment board of appeals shall hold a public hearing in the county concerning those values. The property tax assessment board of appeals shall give notice of the hearing in accordance with IC 5-3-1 and shall hold the hearing after March 31 of the year preceding the year in which the general reassessment begins and before January 1 of the year in which the general reassessment under IC 6-1.1-4-4 begins.

(g) The county property tax assessment board of appeals shall review the values, data, and information submitted under subsection (f) and may make any modifications it considers necessary to provide uniformity and equality. The county property tax assessment board of appeals shall coordinate the valuation of property adjacent to the boundaries of the county with the county property tax assessment boards of appeals of the adjacent counties using the procedures adopted by rule under IC 4-22-2 by the department of local government finance. If the commission fails to submit land values under subsection (f) to the county property tax assessment board of appeals before January 1 of the year the general reassessment under IC 6-1.1-4-4 begins, the county property tax assessment board of appeals shall determine the values.

(h) The county property tax assessment board of appeals shall give notice to the county and township assessors, **if any**, of its decision on the values. The notice must be given before March 1 of the year the general reassessment under IC 6-1.1-4-4 begins. Not later than twenty (20) days after that notice, the county assessor or a township assessor in the county, **if any**, may request that the county property tax assessment board of appeals reconsider the values. The county property tax assessment board of appeals shall hold a hearing on the reconsideration in the county. The county property tax assessment board of appeals shall give notice of the hearing under IC 5-3-1.

(i) Not later than twenty (20) days after notice to the county **assessor and the township assessor, if any**, is given under subsection (h), a taxpayer may request that the county property tax assessment board of appeals reconsider the values. The county property tax assessment board of appeals may hold a hearing on the reconsideration in the county. The county property tax assessment board of appeals shall give notice of the hearing under IC 5-3-1.

(j) A taxpayer may appeal the value determined under this section as applied to the taxpayer's land as part of an appeal filed under IC 6-1.1-15 after the taxpayer has received a notice of assessment. If a taxpayer that files an appeal under IC 6-1.1-15 requests the values, data, or information received by the county property tax assessment board of appeals under subsection (f), the county property tax assessment board of appeals shall satisfy the request. The department of local government finance may modify the taxpayer's land value and the value of any other land in the township, the county where the taxpayer's land is located, or the adjacent county if the department of local government finance determines it is necessary to provide uniformity and equality.

(k) The county assessor shall notify all township assessors, **if any**, in the county of the values as determined by the commission and as modified by the county property tax assessment board of appeals or department of local government finance under this section. Township assessors shall use the values determined under this section.

(l) After notice to the county assessor and all township assessors

in the county, **if any**, a majority of the assessors authorized to vote under this subsection may vote to abolish the county land valuation commission established under subsection (b). Each township assessor, **if any**, and the county assessor has one (1) vote. The county assessor shall give written notice to:

- (1) each member of the county land valuation commission; and
- (2) each township assessor, **if any**, in the county;

of the abolishment of the commission under this subsection.

SECTION 18. IC 6-1.1-4-25, AS AMENDED BY P.L.177-2005, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 25. (a) Each township assessor shall keep the assessor's reassessment data and records current by securing the necessary field data and by making changes in the assessed value of real property as changes occur in the use of the real property. The township assessor's records shall at all times show the assessed value of real property in accordance with the provisions of this chapter. The township assessor shall ensure that the county assessor has full access to the assessment records maintained by the township assessor.

(b) ~~The township assessor in a county having a consolidated city; or the county assessor in every other county;~~ shall:

- (1) maintain an electronic data file of:
  - (A) the parcel characteristics and parcel assessments of all parcels; and
  - (B) the personal property return characteristics and assessments by return;

for each township in the county as of each assessment date;

- (2) maintain the electronic file in a form that formats the information in the file with the standard data, field, and record coding required and approved by:

- (A) the legislative services agency; and
- (B) the department of local government finance;
- (3) transmit the data in the file with respect to the assessment date of each year before October 1 of the year to:
  - (A) the legislative services agency; and
  - (B) the department of local government finance;

in a manner that meets the data export and transmission requirements in a standard format, as prescribed by the office of technology established by IC 4-13.1-2-1 and approved by the legislative services agency; and

- (4) resubmit the data in the form and manner required under this subsection, upon request of the legislative services agency or the department of local government finance, if data previously submitted under this subsection does not comply with the requirements of this subsection, as determined by the legislative services agency or the department of local government finance.

An electronic data file maintained for a particular assessment date may not be overwritten with data for a subsequent assessment date until a copy of an electronic data file that preserves the data for the particular assessment date is archived in the manner prescribed by the office of technology established by IC 4-13.1-2-1 and approved by the legislative services agency.

SECTION 19. IC 6-1.1-5-14, AS AMENDED BY P.L.88-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 14. Not later than May 15, each assessing official **in a county not having a consolidated city** shall prepare and deliver to the county assessor a detailed list of the real property listed for taxation in the township. On or before July 1 of each year, each county assessor shall, under oath, prepare and deliver to the county auditor a detailed list of the real property listed for taxation in the county. ~~In a county with an elected township assessor in every township the township assessor shall prepare the real property list.~~ The assessing officials and the county assessor shall prepare the list in the form prescribed by the department of local government finance. The township assessor shall ensure that the county assessor has full access to the assessment records maintained by the township assessor.

SECTION 20. IC 6-1.1-5.5-3, AS AMENDED BY P.L.228-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. (a) For purposes of this section, "party" includes:

- (1) a seller of property that is exempt under the seller's ownership; or

- (2) a purchaser of property that is exempt under the purchaser's ownership;

from property taxes under IC 6-1.1-10.

(b) Before filing a conveyance document with the county auditor under IC 6-1.1-5-4, all the parties to the conveyance must complete and sign a sales disclosure form as prescribed by the department of local government finance under section 5 of this chapter. All the parties may sign one (1) form, or if all the parties do not agree on the information to be included on the completed form, each party may sign and file a separate form.

(c) ~~Except as provided in subsection (d);~~ The auditor shall forward each sales disclosure form to the county assessor. The county assessor shall retain the forms for five (5) years. The county assessor shall forward the sales disclosure form data to the department of local government finance and the legislative services agency

- (1) ~~before January 1, 2005, in an electronic format, if possible; and~~

- (2) ~~after December 31, 2004, in an electronic format specified jointly by the department of local government finance and the legislative services agency.~~

The county assessor shall forward a copy of the sales disclosure forms to the township assessors, **if any**, in the county. The forms may be used by the county assessing officials, the department of local government finance, and the legislative services agency for the purposes established in IC 6-1.1-4-13.6, sales ratio studies, equalization, adoption of rules under IC 6-1.1-31-3 and IC 6-1.1-31-6, and any other authorized purpose.

~~(d) In a county containing a consolidated city, the auditor shall forward the sales disclosure form to the appropriate township assessor. The township assessor shall forward the sales disclosure form to the department of local government finance and the legislative services agency:~~

- (1) ~~before January 1, 2005, in an electronic format, if possible; and~~

- (2) ~~after December 31, 2004, in an electronic format specified jointly by the department of local government finance and the legislative services agency.~~

~~The forms may be used by the county assessing officials, the department of local government finance, and the legislative services agency for the purposes established in IC 6-1.1-4-13.6, sales ratio studies, equalization, adoption of rules under IC 6-1.1-31-3 and IC 6-1.1-31-6, and any other authorized purpose.~~

~~(e) (d) If a sales disclosure form includes the telephone number or Social Security number of a party, the telephone number or Social Security number is confidential.~~

SECTION 21. IC 6-1.1-5.5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 12. (a) A party to a conveyance who:

- (1) is required to file a sales disclosure form under this chapter; and

- (2) fails to file a sales disclosure form at the time and in the manner required by this chapter;

is subject to a penalty in the amount determined under subsection (b).

(b) The amount of the penalty under subsection (a) is the greater of:

- (1) one hundred dollars (\$100); or
- (2) twenty-five thousandths percent (0.025%) of the sale price of the real property transferred under the conveyance document.

(c) ~~The township assessor in a county containing a consolidated city; or the county assessor in any other county;~~ shall:

- (1) determine the penalty imposed under this section;
- (2) assess the penalty to the party to a conveyance; and
- (3) notify the party to the conveyance that the penalty is payable not later than thirty (30) days after notice of the assessment.

(d) The county auditor shall:

- (1) collect the penalty imposed under this section;
- (2) deposit penalty collections as required under section 4 of this chapter; and
- (3) notify the county prosecuting attorney of delinquent payments.

(e) The county prosecuting attorney shall initiate an action to recover a delinquent penalty under this section. In a successful action against a person for a delinquent penalty, the court shall award the

county prosecuting attorney reasonable attorney's fees.

SECTION 22. IC 6-1.1-8-24, AS AMENDED BY P.L.88-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 24. (a) Each year a township assessor shall assess the fixed property which as of the assessment date of that year is:

- (1) owned or used by a public utility company; and
- (2) located in the township the township assessor serves.

(b) The township assessor shall determine the assessed value of fixed property. **Except as provided in subsection (c),** the township assessor shall certify the assessed values to the county assessor on or before April 1 of the year of assessment. **However, The county assessor shall review the assessed values and shall certify the assessed values to the department of local government finance on or before April 10 of the year of assessment.**

(c) In a county with an elected township assessor in every township, the township assessor shall certify the list to the department of local government finance. **In a county having a consolidated city,** the county assessor shall review the assessed values and shall certify the assessed values list to the department of local government finance. **on or before April 10 of the year of assessment.**

SECTION 23. IC 6-1.1-18.5-21 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 21. (a) **The ad valorem property tax levy limits imposed by this chapter do not apply to ad valorem property taxes imposed by a consolidated city to pay or fund any indebtedness assumed, defeased, paid, or refunded under IC 36-3-1-6.1, IC 36-3-1-6.3, or IC 36-6-1.1-4.**

(b) **For property taxes first due and payable each year beginning in 2007, the maximum permissible ad valorem property tax levy for a consolidated city is increased each year by an amount equal to the lesser of:**

- (1) the difference between:
  - (A) the maximum permissible ad valorem property tax levy under section 3 of this chapter for the current year for the consolidated city's fire special service district created under IC 36-3-1-6; and
  - (B) the amount levied that year for the fire special service district; or
- (2) ten percent (10%) of the maximum permissible ad valorem property tax levy under section 3 of this chapter for property taxes first due and payable in 2007 for the consolidated city's fire special service district created under IC 36-3-1-6.

SECTION 24. IC 6-1.1-28-1, AS AMENDED BY P.L.228-2005, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. (a) **This section applies to all counties except a county having a consolidated city.** Each county shall have a county property tax assessment board of appeals composed of individuals who are at least eighteen (18) years of age and knowledgeable in the valuation of property. In addition to the county assessor, only one (1) other individual who is an officer or employee of a county or township may serve on the board of appeals in the county in which the individual is an officer or employee. Subject to subsections (d) and (e), the fiscal body of the county shall appoint two (2) individuals to the board. At least one (1) of the members appointed by the county fiscal body must be a certified level two assessor-appraiser. Subject to subsections (d) and (e), the board of commissioners of the county shall appoint two (2) freehold members so that not more than three (3) of the five (5) members may be of the same political party and so that at least three (3) of the five (5) members are residents of the county. At least one (1) of the members appointed by the board of county commissioners must be a certified level two assessor-appraiser. If the county assessor is a certified level two assessor-appraiser, the board of county commissioners may waive the requirement in this subsection that one (1) of the freehold members appointed by the board of county commissioners must be a certified level two assessor-appraiser. A person appointed to a property tax assessment board of appeals may serve on the property tax assessment board of appeals of another county at the same time. The members of the board shall elect a president. The employees of the county assessor shall provide administrative support to the property tax assessment board of

appeals. The county assessor is a voting member of the property tax assessment board of appeals. The county assessor shall serve as secretary of the board. The secretary shall keep full and accurate minutes of the proceedings of the board. A majority of the board that includes at least one (1) certified level two assessor-appraiser constitutes a quorum for the transaction of business. Any question properly before the board may be decided by the agreement of a majority of the whole board.

(b) The county assessor, county fiscal body, and board of county commissioners may agree to waive the requirement in subsection (a) that not more than three (3) of the five (5) members of the county property tax assessment board of appeals may be of the same political party if it is necessary to waive the requirement due to the absence of certified level two Indiana assessor-appraisers:

- (1) who are willing to serve on the board; and
- (2) whose political party membership status would satisfy the requirement in subsection ~~(c)(1)~~: (a).

(c) If the board of county commissioners is not able to identify at least two (2) prospective freehold members of the county property tax assessment board of appeals who are:

- (1) residents of the county;
- (2) certified level two Indiana assessor-appraisers; and
- (3) willing to serve on the county property tax assessment board of appeals;

it is not necessary that at least three (3) of the five (5) members of the county property tax assessment board of appeals be residents of the county.

(d) Except as provided in subsection (e), the term of a member of the county property tax assessment board of appeals appointed under subsection (a):

- (1) is one (1) year; and
- (2) begins January 1.

(e) If:

- (1) the term of a member of the county property tax assessment board of appeals appointed under subsection (a) expires;
- (2) the member is not reappointed; and
- (3) a successor is not appointed;

the term of the member continues until a successor is appointed.

SECTION 25. IC 6-1.1-28-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1.5. (a) **This section applies to a county having a consolidated city.** The county property tax assessment board of appeals is established, composed of individuals who are at least eighteen (18) years of age and knowledgeable in the valuation of property. In addition to the county assessor, who serves as a nonvoting member, only one (1) other individual who is an officer or employee of the county may serve on the board of appeals. The fiscal body of the county shall appoint two (2) individuals to the board. At least one (1) of the members appointed by the county fiscal body must be a certified level two Indiana assessor-appraiser. The board of commissioners of the county shall appoint three (3) freehold members so that not more than three (3) of the five (5) voting members are of the same political party and so that at least three (3) of the five (5) voting members are residents of the county. At least one (1) of the members appointed by the board of county commissioners must be a certified level two Indiana assessor-appraiser. One (1) of the members appointed by the board of county commissioners must be a representative of a neighborhood or taxpayer organization located in the county. A person appointed to a property tax assessment board of appeals may serve on the property tax assessment board of appeals of another county at the same time. The members of the board shall elect a president. The employees of the county assessor shall provide administrative support to the property tax assessment board of appeals. The county assessor shall serve as secretary of the board. The secretary shall keep full and accurate minutes of the proceedings of the board. A majority of the voting members of the board that includes at least one (1) certified level two Indiana assessor-appraiser constitutes a quorum for the transaction of business. Any question properly before the board may be decided by the agreement of a majority of the voting members of the board.

(b) The county fiscal body and board of commissioners of the county may agree to waive the requirement in subsection (a) that not more than three (3) of the five (5) members of the county property tax assessment board of appeals are of the same political party if it is necessary to waive the requirement due to the absence of certified level two Indiana assessor-appraisers:

(1) who are willing to serve on the board; and

(2) whose political party membership status would satisfy the requirement in subsection (a).

(c) If the board of county commissioners is not able to identify at least two (2) prospective freehold members of the county property tax assessment board of appeals who are:

(1) residents of the county;

(2) certified level two Indiana assessor-appraisers; and

(3) willing to serve on the county property tax assessment board of appeals;

it is not necessary that at least three (3) of the five (5) members of the county property tax assessment board of appeals be residents of the county.

SECTION 26. IC 6-1.1-31.5-3.5, AS AMENDED BY P.L.228-2005, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3.5. (a) Until the system described in subsection (e) is implemented, each county shall maintain a state certified computer system that has the capacity to:

(1) process and maintain assessment records;

(2) process and maintain standardized property tax forms;

(3) process and maintain standardized property assessment notices;

(4) maintain complete and accurate assessment records for the county; and

(5) process and compute complete and accurate assessments in accordance with Indiana law.

In a county that does not have a consolidated city and does not have an elected township assessor in every township, the county assessor with the recommendation of the township assessors shall select the computer system used by township assessors and the county assessor in the county. ~~except in a county with an elected township assessor in every township.~~ In a county with that does not have a consolidated city but has an elected township assessor in every township, the elected township assessors shall select a computer system based on a majority vote of the township assessors in the county. In a county that has a consolidated city, the county assessor shall select a computer system.

(b) All information on a computer system referred to in subsection

(a) shall be readily accessible to:

(1) township assessors;

(2) the county assessor;

(3) the department of local government finance; and

(4) members of the county property tax assessment board of appeals.

(c) The certified system referred to in subsection (a) used by the counties must be:

(1) compatible with the data export and transmission requirements in a standard format prescribed by the office of technology established by IC 4-13.1-2-1 and approved by the legislative services agency; and

(2) maintained in a manner that ensures prompt and accurate transfer of data to the department of local government finance and the legislative services agency.

(d) All standardized property forms and notices on the certified computer system referred to in subsection (a) shall be maintained by the township assessor and the county assessor in an accessible location and in a format that is easily understandable for use by persons of the county.

(e) The department shall adopt rules before July 1, 2006, for the establishment of:

(1) a uniform and common property tax management system among all counties that:

(A) includes a combined mass appraisal and county auditor system integrated with a county treasurer system; and

(B) replaces the computer system referred to in subsection (a); and

(2) a schedule for implementation of the system referred to in subdivision (1) structured to result in the implementation of the system in all counties with respect to an assessment date:

(A) determined by the department; and

(B) specified in the rule.

(f) The department shall appoint an advisory committee to assist the department in the formulation of the rules referred to in subsection

(e). The department shall determine the number of members of the committee. The committee:

(1) must include at least:

(A) one (1) township assessor;

(B) one (1) county assessor;

(C) one (1) county auditor; and

(D) one (1) county treasurer; and

(2) shall meet at times and locations determined by the department.

(g) Each member of the committee appointed under subsection (f) who is not a state employee is not entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(h) Each member of the committee appointed under subsection (f) who is a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(i) The department shall report to the budget committee in writing the department's estimate of the cost of implementation of the system referred to in subsection (e).

SECTION 27. IC 6-1.5-5-5, AS AMENDED BY P.L.199-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 5. After the hearing, the Indiana board shall give the petitioner, the township assessor, if any, the county assessor, the county auditor, the affected taxing units required to be notified under section 2(e) of this chapter, and the department of local government finance:

(1) notice, by mail, of its final determination, findings of fact, and conclusions of law; and

(2) notice of the procedures the petitioner or the department of local government finance must follow in order to obtain court review of the final determination of the Indiana board.

SECTION 28. IC 6-2.5-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. (a) A retail merchant may not make a retail transaction in Indiana, unless ~~he~~ **the retail merchant** has applied for a registered retail merchant's certificate.

(b) A retail merchant may obtain a registered retail merchant's certificate by filing an application with the department and paying a registration fee of twenty-five dollars (\$25) for each place of business listed on the application. The retail merchant shall also provide such security for payment of the tax as the department may require under IC 6-2.5-6-12.

(c) The retail merchant shall list on the application the location (including the township) of each place of business where ~~he~~ **the merchant** makes retail transactions. However, if the retail merchant does not have a fixed place of business, ~~he~~ **the merchant** shall list ~~his~~ **the merchant's** residence as ~~his~~ **the merchant's** place of business. In addition, a public utility may list only its principal Indiana office as its place of business for sales of public utility commodities or service, but the utility must also list on the application the places of business where it makes retail transactions other than sales of public utility commodities or service.

(d) Upon receiving a proper application, the correct fee, and the security for payment, if required, the department shall issue to the retail merchant a separate registered retail merchant's certificate for each place of business listed on the application. Each certificate shall bear a serial number and the location of the place of business for which it is issued.

(e) If a retail merchant intends to make retail transactions during

a calendar year at a new Indiana place of business, ~~he~~ **the retail merchant** must file a supplemental application and pay the fee for that place of business.

(f) A retail merchant engaged in business in Indiana as defined in IC 6-2.5-3-1(c) who makes retail transactions that are only subject to the use tax must obtain a registered retail merchant's certificate before making those transactions. The retail merchant may obtain the certificate by following the same procedure as a retail merchant under subsections (b) and (c), except that the retail merchant must also include on the application:

- (1) the names and addresses of the retail merchant's principal employees, agents, or representatives who engage in Indiana in the solicitation or negotiation of the retail transactions;
- (2) the location of all of the retail merchant's places of business in Indiana, including offices and distribution houses; and
- (3) any other information that the department requests.

(g) The department may permit an out-of-state retail merchant to collect the use tax. However, before the out-of-state retail merchant may collect the tax, ~~he~~ **the retail merchant** must obtain a registered retail merchant's certificate in the manner provided by this section. Upon receiving the certificate, the out-of-state retail merchant becomes subject to the same conditions and duties as an Indiana retail merchant and must then collect the use tax due on all sales of tangible personal property that ~~he~~ **the retail merchant** knows is intended for use in Indiana.

(h) The department shall submit to the township assessor **or, in the case of a township located in a county having a consolidated city, the county assessor** before July 15 of each year:

- (1) the name of each retail merchant that has newly obtained a registered retail merchant's certificate between March 2 of the preceding year and March 1 of the current year for a place of business located in the township **or county, as appropriate;** and
- (2) the address of each place of business of the taxpayer in the township **or county, as appropriate.**

SECTION 29. IC 6-3.5-6-18.5, AS AMENDED BY P.L.234-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 18.5. (a) This section applies to a county containing a consolidated city.

(b) Notwithstanding section 18(e) of this chapter, the distributive shares that each civil taxing unit in a county containing a consolidated city is entitled to receive during a month equals the following:

(1) For the calendar year beginning January 1, 1995, calculate the total amount of revenues that are to be distributed as distributive shares during that month multiplied by the following factor:

Center Township	.0251
Decatur Township	.00217
Franklin Township	.0023
Lawrence Township	.01177
Perry Township	.01130
Pike Township	.01865
Warren Township	.01359
Washington Township	.01346
Wayne Township	.01307
Lawrence-City	.00858
Beech Grove	.00845
Southport	.00025
Speedway	.00722
Indianapolis/Marion County	.86409

(2) Notwithstanding subdivision (1), for the calendar year beginning January 1, 1995, the distributive shares for each civil taxing unit in a county containing a consolidated city shall be not less than the following:

Center Township	\$1,898,145
Decatur Township	\$164,103
Franklin Township	\$173,934
Lawrence Township	\$890,086
Perry Township	\$854,544
Pike Township	\$1,410,375
Warren Township	\$1,027,721
Washington Township	\$1,017,890
Wayne Township	\$988,397

Lawrence-City	\$648,848
Beech Grove	\$639,017
Southport	\$18,906
Speedway	\$546,000

(3) For each year after 1995, calculate the total amount of revenues that are to be distributed as distributive shares during that month as follows:

STEP ONE: Determine the total amount of revenues that were distributed as distributive shares during that month in calendar year 1995.

STEP TWO: Determine the total amount of revenue that the department has certified as distributive shares for that month under section 17 of this chapter for the calendar year.

STEP THREE: Subtract the STEP ONE result from the STEP TWO result.

STEP FOUR: If the STEP THREE result is less than or equal to zero (0), multiply the STEP TWO result by the ratio established under subdivision (1).

STEP FIVE: Determine the ratio of:

(A) the maximum permissible property tax levy under IC 6-1.1-18.5, IC 12-19-7, and IC 12-19-7.5 for each civil taxing unit for the calendar year in which the month falls, plus, for a county, an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund; divided by

(B) the sum of the maximum permissible property tax levies under IC 6-1.1-18.5, IC 12-19-7, and IC 12-19-7.5 for all civil taxing units of the county during the calendar year in which the month falls, and an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund.

STEP SIX: If the STEP THREE result is greater than zero (0), the STEP ONE amount shall be distributed by multiplying the STEP ONE amount by the ratio established under subdivision (1).

STEP SEVEN: For each taxing unit determine the STEP FIVE ratio multiplied by the STEP TWO amount.

STEP EIGHT: For each civil taxing unit determine the difference between the STEP SEVEN amount minus the product of the STEP ONE amount multiplied by the ratio established under subdivision (1). The STEP THREE excess shall be distributed as provided in STEP NINE only to the civil taxing units that have a STEP EIGHT difference greater than or equal to zero (0).

STEP NINE: For the civil taxing units qualifying for a distribution under STEP EIGHT, each civil taxing unit's share equals the STEP THREE excess multiplied by the ratio of:

(A) the maximum permissible property tax levy under IC 6-1.1-18.5, IC 12-19-7, and IC 12-19-7.5 for the qualifying civil taxing unit during the calendar year in which the month falls, plus, for a county, an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund; divided by

(B) the sum of the maximum permissible property tax levies under IC 6-1.1-18.5, IC 12-19-7, and IC 12-19-7.5 for all qualifying civil taxing units of the county during the calendar year in which the month falls, and an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund.

**(c) Except with respect to Center Township, for each year after 2006, sixty-six percent (66%) of the revenues to be distributed as distributive shares during each month to the townships listed in this section are to be distributed as additional distributive shares to Indianapolis/Marion County and the township distributive shares are reduced by sixty-six percent (66%).**

**(d) If Lawrence, Beech Grove, Southport, or Speedway consolidates its fire department into the consolidated fire department under IC 36-3-1-6.3, commencing with the calendar year following that consolidation and for each year thereafter,**

**the monthly distributive share of county option income taxes distributed to Lawrence, Beech Grove, Southport, or Speedway, as applicable, shall be reduced by a percentage set forth in the ordinances adopted under IC 36-3-1-6.3, and those revenues shall instead be distributed as additional distributive shares to Indianapolis/Marion County.**

SECTION 30. IC 6-6-5.5-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 18. (a) A taxpayer who owns, holds, possesses, or controls a commercial vehicle that:

- (1) is subject to the commercial vehicle excise tax imposed under this chapter; and
- (2) would have been subject to assessment as personal property on March 1, 2000, under the law in effect before January 1, 2000;

shall file an information return on or before May 15, 2000, with the assessor of each township in which the taxpayer's commercial vehicles would have been subject to assessment and taxation under IC 6-1.1.

(b) The information return ~~shall be~~ is filed on a form prescribed by the department of local government finance and shall require the taxpayer to provide information regarding the value, nature, and location of each commercial vehicle which the taxpayer owns, holds, possesses, or controls on March 1, 2000. If a commercial vehicle is used or operated in interstate commerce, the value reported on the information return ~~shall be~~ is determined under the procedure set forth in 50 IAC 4.2-10-3.

(c) The information return shall be furnished to the taxpayer by the appropriate ~~township~~ assessor **for each township** in the same manner and at the same time as the taxpayer's personal property tax return.

(d) In completing an information return under this section, a taxpayer shall make a complete disclosure of all information, required by the department of local government finance, that is related to the value, nature, or location of commercial vehicles that the taxpayer owns, holds, possesses or controls on March 1, 2000. The taxpayer shall certify to the truth of all information appearing in the information return and all data accompanying the information return.

(e) The ~~township~~ assessor **for each township** shall examine and verify the accuracy of each information return filed by a taxpayer. If appropriate, the assessor **for each township** shall compare an information return with the books of the taxpayer and with commercial vehicles owned, held, possessed, or controlled by the taxpayer.

SECTION 31. IC 6-6-5.5-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 19. (a) As used in this section, "assessed value" means an amount equal to the true tax value of commercial vehicles that:

- (1) are subject to the commercial vehicle excise tax under this chapter; and
- (2) would have been subject to assessment as personal property on March 1, 2000, under the law in effect before January 1, 2000.

(b) For calendar year 2001, a taxing unit's base revenue shall be determined as provided in subsection (f). For calendar years that begin after December 31, 2001, a taxing unit's base revenue shall be determined by multiplying the previous year's base revenue by one hundred five percent (105%).

(c) The amount of commercial vehicle excise tax distributed to the taxing units of Indiana from the commercial vehicle excise tax fund shall be determined in the manner provided in this section. On or before June 1, 2000, ~~each township~~ the assessor **of a county for each township** shall deliver to the county assessor a list that states by taxing district the total assessed value as shown on the information returns filed with the assessor on or before May 15, 2000.

(d) On or before July 1, 2000, each county assessor shall certify to the county auditor the assessed value of commercial vehicles in every taxing district.

(e) On or before August 1, 2000, the county auditor shall certify the following to the department of local government finance:

- (1) The total assessed value of commercial vehicles in the county.
- (2) The total assessed value of commercial vehicles in each taxing district of the county.

(f) The department of local government finance shall determine each taxing unit's base revenue by applying the current tax rate for each taxing district to the certified assessed value from each taxing district. The department of local government finance shall also determine the following:

(1) The total amount of base revenue to be distributed from the commercial vehicle excise tax fund in 2001 to all taxing units in Indiana.

(2) The total amount of base revenue to be distributed from the commercial vehicle excise tax fund in 2001 to all taxing units in each county.

(3) Each county's total distribution percentage. A county's total distribution percentage shall be determined by dividing the total amount of base revenue to be distributed in 2001 to all taxing units in the county by the total base revenue to be distributed statewide.

(4) Each taxing unit's distribution percentage. A taxing unit's distribution percentage shall be determined by dividing each taxing unit's base revenue by the total amount of base revenue to be distributed in 2001 to all taxing units in the county.

(g) The department of local government finance shall certify each taxing unit's base revenue and distribution percentage for calendar year 2001 to the auditor of state on or before September 1, 2000.

(h) The auditor of state shall keep permanent records of each taxing unit's base revenue and distribution percentage for calendar year 2001 for purposes of determining the amount of money each taxing unit in Indiana is entitled to receive in calendar years that begin after December 31, 2001.

SECTION 32. IC 6-8.1-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. (a) This subsection does not apply to the disclosure of information concerning a conviction on a tax evasion charge. Unless in accordance with a judicial order or as otherwise provided in this chapter, the department, its employees, former employees, counsel, agents, or any other person may not divulge the amount of tax paid by any taxpayer, terms of a settlement agreement executed between a taxpayer and the department, investigation records, investigation reports, or any other information disclosed by the reports filed under the provisions of the law relating to any of the listed taxes, including required information derived from a federal return, except to:

- (1) members and employees of the department;
- (2) the governor;
- (3) the attorney general or any other legal representative of the state in any action in respect to the amount of tax due under the provisions of the law relating to any of the listed taxes; or
- (4) any authorized officers of the United States;

when it is agreed that the information is to be confidential and to be used solely for official purposes.

(b) The information described in subsection (a) may be revealed upon the receipt of a certified request of any designated officer of the state tax department of any other state, district, territory, or possession of the United States when:

- (1) the state, district, territory, or possession permits the exchange of like information with the taxing officials of the state; and
- (2) it is agreed that the information is to be confidential and to be used solely for tax collection purposes.

(c) The information described in subsection (a) relating to a person on public welfare or a person who has made application for public welfare may be revealed to the director of the division of family and children, and to any county director of family and children located in Indiana, upon receipt of a written request from either director for the information. The information shall be treated as confidential by the directors. In addition, the information described in subsection (a) relating to a person who has been designated as an absent parent by the state Title IV-D agency shall be made available to the state Title IV-D agency upon request. The information shall be subject to the information safeguarding provisions of the state and federal Title IV-D programs.

(d) The name, address, Social Security number, and place of employment relating to any individual who is delinquent in paying educational loans owed to an institution of higher education may be revealed to that institution if it provides proof to the department that

the individual is delinquent in paying for educational loans. This information shall be provided free of charge to approved institutions of higher learning (as defined by IC 20-12-21-3(2)). The department shall establish fees that all other institutions must pay to the department to obtain information under this subsection. However, these fees may not exceed the department's administrative costs in providing the information to the institution.

(e) The information described in subsection (a) relating to reports submitted under IC 6-6-1.1-502 concerning the number of gallons of gasoline sold by a distributor, and IC 6-6-2.5 concerning the number of gallons of special fuel sold by a supplier and the number of gallons of special fuel exported by a licensed exporter or imported by a licensed transporter may be released by the commissioner upon receipt of a written request for the information.

(f) The information described in subsection (a) may be revealed upon the receipt of a written request from the administrative head of a state agency of Indiana when:

- (1) the state agency shows an official need for the information; and
- (2) the administrative head of the state agency agrees that any information released will be kept confidential and will be used solely for official purposes.

(g) The name and address of retail merchants, including township, as specified in IC 6-2.5-8-1(h) may be released solely for tax collection purposes to **township assessors for each township**.

(h) The department shall notify the appropriate innkeepers' tax board, bureau, or commission that a taxpayer is delinquent in remitting innkeepers' taxes under IC 6-9.

(i) All information relating to the delinquency or evasion of the motor vehicle excise tax may be disclosed to the bureau of motor vehicles in Indiana and may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.

(j) All information relating to the delinquency or evasion of commercial vehicle excise taxes payable to the bureau of motor vehicles in Indiana may be disclosed to the bureau and may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.5.

(k) All information relating to the delinquency or evasion of commercial vehicle excise taxes payable under the International Registration Plan may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.5.

(l) This section does not apply to:

- (1) the beer excise tax (IC 7.1-4-2);
- (2) the liquor excise tax (IC 7.1-4-3);
- (3) the wine excise tax (IC 7.1-4-4);
- (4) the hard cider excise tax (IC 7.1-4-4.5);
- (5) the malt excise tax (IC 7.1-4-5);
- (6) the motor vehicle excise tax (IC 6-6-5);
- (7) the commercial vehicle excise tax (IC 6-6-5.5); and
- (8) the fees under IC 13-23.

(m) The name and business address of retail merchants within each county that sell tobacco products may be released to the division of mental health and addiction and the alcohol and tobacco commission solely for the purpose of the list prepared under ~~IC 6-2.5-6-14~~. **IC 6-2.5-6-14.2.**

SECTION 33. IC 8-22-3-11.6, AS ADDED BY P.L.227-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11.6. (a) This section applies only to an airport authority established for a county having a consolidated city.

(b) ~~The legislative body of the consolidated city and the governing body of the airport authority may adopt substantially similar ordinances providing that After December 31, 2006, the fire department of the airport authority is consolidated into the fire department of the consolidated city created by IC 36-3-1-6.1, and that the fire department of the consolidated city shall provide fire protection services for the airport authority. If ordinances are adopted under this section, the consolidation shall take effect on the date agreed to by the legislative body of the consolidated city and the governing body of the airport authority in the ordinances.~~

(c) ~~The legislative body of the consolidated city and the governing body of the airport authority may adopt substantially similar ordinances an ordinance under IC 36-3-1-5.1 providing that the law enforcement services of the airport authority are consolidated into the consolidated law enforcement department of the consolidated city created by IC 36-3-1-5.1, and that the law enforcement department of the consolidated city shall provide law enforcement services for the airport authority. If ordinances are adopted under this section, the consolidation shall take effect on the date agreed to by the legislative body of the consolidated city and the governing body of the airport authority in the ordinances.~~

SECTION 34. IC 9-22-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 1. The following officers may act for their respective units of government under this chapter:

- (1) The sheriff, for a county.
- (2) The chief of police, for a city.
- (3) A town marshal, for a town.
- (4) A township trustee, for a township **in a county not having a consolidated city**.
- (5) A state police officer, for the state.

SECTION 35. IC 10-18-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 1. A township trustee **for a township in a county not having a consolidated city** may receive as public property a monument or memorial built:

- (1) in the township;
- (2) in honor of the township's soldiers or marines; and
- (3) by the people with public donations;

if the people of the township want to give the monument or memorial to the township.

SECTION 36. IC 12-7-2-192.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 192.6. **"Township", for purposes of IC 12-20 and IC 12-30-4, means a:**

- (1) **civil township; or**
- (2) **township district (as defined in IC 36-6-4.1-5) for a county having a consolidated city.**

SECTION 37. IC 14-21-1-13.5, AS AMENDED BY P.L.1-2005, SECTION 143, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 13.5. (a) The division may conduct a program to survey and register in a registry of Indiana cemeteries and burial grounds that the division establishes and maintains all cemeteries and burial grounds in each county in Indiana. The division may conduct the program alone or by entering into an agreement with one (1) or more of the following entities:

- (1) The Indiana Historical Society established under IC 23-6-3.
- (2) A historical society (as defined in IC 36-10-13-3).
- (3) The Historic Landmarks Foundation of Indiana.
- (4) A professional archeologist or historian associated with a college or university.
- (5) A township trustee **in a county not having a consolidated city**.
- (6) Any other entity that the division selects.

(b) In conducting a program under subsection (a), the division may receive gifts and grants under terms, obligations, and liabilities that the director considers appropriate. The director shall use a gift or grant received under this subsection:

- (1) to carry out subsection (a); and
- (2) according to the terms of the gift or grant.

(c) At the request of the director, the auditor of state shall establish a trust fund for purposes of holding money received under subsection (b).

(d) The director shall administer a trust fund established by subsection (c). The expenses of administering the trust fund shall be paid from money in the trust fund.

(e) The treasurer of state shall invest the money in the trust fund established by subsection (c) that is not currently needed to meet the obligations of the trust fund in the same manner as other public trust funds may be invested. The treasurer of state shall deposit in the trust fund the interest that accrues from the investment of the trust fund.

(f) Money in the trust fund at the end of a state fiscal year does not revert to the state general fund.

(g) Nothing in this section may be construed to authorize violation

of the confidentiality of information requirements of 16 U.S.C. 470(w) and 16 U.S.C. 470(h)(h).

(h) The division may record in each county recorder's office the location of each cemetery and burial ground located in that county.

SECTION 38. IC 15-3-4-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: **Sec. 0.5. (a) This section applies to a township in a county having a consolidated city.**

**(b) After December 31, 2007, the duties of a township trustee under this chapter are transferred to the consolidated city.**

SECTION 39. IC 15-3-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 1. (a) As used in this chapter, "detrimental plant" includes Canada thistle (*cirsium arvense*), Johnson grass, sorghum alumun (*sorghum halrpense*), bur cucumber (*sicyos angulatus*), shattercane (*Sorghum bicolor* [L.] Moench spp. *drummondii* [Steud.] deWet), and, in residential areas only, noxious weeds and rank vegetation. The term does not include agricultural crops.

(b) As used in this chapter, "person" means an individual, an incorporated or unincorporated organization or association, a trustee or legal representative, the state, a political subdivision (as defined in IC 36-1-2-13), an agency of the state or a political subdivision, or a group of those persons acting in concert.

**(c) As used in this chapter, "fund" means:**

**(1) the township fund for a township in a county not having a consolidated city; or**

**(2) the appropriate fund of the consolidated city for a county having a consolidated city.**

**(d) As used in this chapter, "township trustee" or "trustee" means:**

**(1) a township trustee for a township in a county not having a consolidated city; or**

**(2) the consolidated city for a township in a county having a consolidated city.**

**(e)** A person owning or possessing real estate in Indiana shall destroy detrimental plants by cutting or mowing and, if necessary, by plowing, cultivating, or smothering, or by the use of chemicals in the bud stage of growth or earlier, to prevent those detrimental plants from maturing on any such real estate.

SECTION 40. IC 15-3-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 2. (a) A township trustee who has reason to believe that detrimental plants may be on real estate may, after giving forty-eight (48) hours notice to the owner or person in possession of the property, enter the real estate to investigate.

(b) Except as provided in subsection (c), if the township trustee determines after investigating the property or by visual inspection without entering the property that a person has detrimental plants growing on real estate in ~~the~~ **a township that comprises all or a part of the township trustee's jurisdiction** that have not been destroyed as described in section 1 of this chapter, ~~the trustee of the township in which the real estate is located~~ **township trustee** shall notify, in writing, the owner or person in possession of the real estate to destroy the detrimental plants in a manner provided in section 1 of this chapter within five (5) days after the notice is given. If the detrimental plants are not destroyed as provided in section 1 of this chapter within five (5) days after notice is given, the trustee shall cause the detrimental plants to be destroyed in a manner seeming most practical to the trustee within three (3) additional days. The trustee may hire a person to destroy the detrimental plants. The trustee or the person employed to destroy the detrimental plants may enter upon the real estate where the detrimental plants are growing to destroy the detrimental plants, and are not civilly or criminally liable for damage to crops, livestock, or other property occurring while carrying out such work, except for gross negligence or willful or wanton destruction.

(c) If the county has established a county weed control board under IC 15-3-4.6 the township trustee may notify the county weed control board of the real estate containing detrimental plants, and the board shall either assume jurisdiction to control the detrimental plants or decline jurisdiction and refer the matter back to the township trustee. The county weed control board shall notify the township trustee of the board's decision.

(d) Notice required in subsection (a) or (b) may be given:

(1) by mail, using certified mail; or

(2) by personal service.

(e) Notice under subsection (d) is considered received by the owner or person in possession of the real estate:

(1) if sent by mail, on the earlier of:

(A) the date of signature of receipt of the mailing; or

(B) three (3) business days after the date of mailing; or

(2) if served personally, on the date of delivery.

SECTION 41. IC 15-3-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 3. (a) The township trustee may pay for the chemicals, work, and labor performed in cutting or destroying detrimental plants under this chapter at a rate per hour to be fixed by the township trustee commensurate with local hourly wages.

(b) In all cases in which the infestation of the land with detrimental plants is so great and widespread as in the opinion of the trustee to render such cutting or eradication by hand methods impractical, the trustee shall engage the necessary power machinery or equipment and may pay for the work at a rate per hour fixed by the township trustee commensurate with the local hourly rate.

(c) When the work has been performed, the person doing the work shall file an itemized bill for the work ~~in the office of~~ **with** the trustee ~~of the township~~, and when the bill has been approved the trustee shall pay the bill out of the ~~township~~ fund. The trustee of the township shall certify the cost or expense of the work, and the cost of the chemicals, adding to such bill twenty dollars (\$20) per day for each day that the trustee or the trustee's agent supervises the performance of the services required under this chapter as compensation for services, with a description of the real estate on which the labor was performed.

(d) The certified statement of costs prepared under subsection (c) shall be mailed using certificate of mailing to, or personally served on, the owner or person possessing the real estate. The certified statement shall be mailed to the auditor of state for any real estate owned by the state or to the fiscal officer of another municipality (as defined in IC 5-11-1-16) for real estate owned by the municipality. The statement shall request that the person pay the cost of performing the service under subsection (c) to the township trustee.

(e) If the owner or person in possession of the property does not pay the amount set forth in the statement within ten (10) days after receiving the notice under subsection (d), the township trustee shall file a copy of the certified statement in the office of the county auditor of the county where the real estate is located **or, if the township is in a county having a consolidated city, the office of the controller.**

(f) The auditor **or the city controller** shall place the amount claimed in the certified statement on the tax duplicate of the real estate. Except as provided in subsections (j) through (l), the amount claimed shall be collected as taxes are collected.

(g) After an amount described in subsection (f) is collected, the funds shall be deposited in the ~~trustee's township funds fund~~ for use at the discretion of the trustee.

(h) If there is no money available in ~~a the township~~ fund for that purpose, ~~the township board~~, upon finding an emergency exists:

**(1) the township legislative body** shall act under IC 36-6-6-14(b) or IC 36-6-6-15; **or**

**(2) a consolidated city shall act under IC 36-3-4;**

to borrow a sum of money sufficient to meet the emergency.

(i) The trustee, when submitting estimates to the ~~township board~~ **legislative body** for action, shall include in the estimates an item sufficient to cover those expenditures.

(j) This subsection applies to real estate owned by the state. The auditor of state shall issue a warrant to pay the amount set forth in the certified statement of costs for real estate owned by the state and shall charge the appropriate fund for the amount.

(k) This subsection applies to real estate owned by a municipality (as defined in IC 5-11-1-16) other than the township **or a consolidated city**. The fiscal officer of the municipality shall make the necessary appropriation from the appropriate fund to pay the township the amount set forth in the certified statement of costs for real estate owned by the municipality.

(l) This subsection applies to real estate that is exempt from property taxation. The owner of the tax exempt real estate shall pay

the amount set forth in the certified statement of costs for the tax exempt real estate. If the owner of the tax exempt real estate fails to pay the amount required by this chapter, the owner is ineligible for the property tax exemption and the department of local government finance shall deny the property tax exemption for the real estate.

SECTION 42. IC 15-3-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 4. Except as provided in section 3 of this chapter, the county auditor **or, if a township is in a county having a consolidated city, the controller,** upon receiving and filing such trustee's certificate as prescribed in this chapter, shall immediately place said amounts on the tax duplicate of the county and such amounts shall be due at the next tax paying time, and shall be collected for the proper township, ~~or townships,~~ **or consolidated city,** the same as other state, county, or township taxes are collected, including penalties, forfeitures, and sales, and when so collected shall be paid to the proper trustee and placed in the ~~township~~ fund.

SECTION 43. IC 15-3-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 5. (a) A person who:

- (1) knowingly allows detrimental plants to grow and mature on land owned or possessed by the person;
- (2) knowing of the existence of detrimental plants on land owned or possessed by the person, fails to cut them down or eradicate them by chemicals each year, as prescribed in this chapter;
- (3) having charge of or control over any highway, knowingly allows detrimental plants to grow or mature on the right-of-way of the highway, or, knowing of the existence of the detrimental plants fails to cut them down or eradicate them by chemicals, as prescribed in this chapter;
- (4) having charge of or control over the right-of-way of a railroad or interurban company, knowingly allows detrimental plants to grow and mature thereon, or knowing of the existence of the detrimental plants, fails to cut them down or eradicate them by chemicals, as prescribed in this chapter; or
- (5) knowingly sells Canada thistle (*cirsium arvense*) seed;

commits a Class C infraction. Each day this section is violated constitutes a separate infraction.

(b) All judgments collected under this section shall be paid to the trustee and placed in the ~~trustee's township funds fund~~ **fund** for use at the discretion of the trustee **or the consolidated city.**

SECTION 44. IC 15-3-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 7. When the annual budget is prepared, a sufficient amount shall be appropriated to enable the township ~~officials trustee~~ **trustee** to comply with this chapter.

SECTION 45. IC 15-3-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 8. (a) The Purdue University cooperative extension service shall provide technical assistance to township trustees for the control of detrimental plants.

(b) All law enforcement agencies having jurisdiction in a township **or a consolidated city** shall assist the township trustee in carrying out the duties imposed on the trustee under this chapter.

SECTION 46. IC 15-3-4.6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 3. The weed control board consists of the following members to be appointed by the authorizing body:

- (1) One (1) **member appointed as follows:**
  - (A) **In a county not having a consolidated city,** a township trustee of a **township** in the county.
  - (B) **In a county having a consolidated city, the director of the department of the consolidated city that is responsible for the destruction of detrimental plants described in this chapter or the director's designee.**
- (2) One (1) soil and water conservation district supervisor.
- (3) A representative from the agricultural community of the county.
- (4) A representative from the county highway department or an appointee of the county commissioners. ~~and~~
- (5) A cooperative extension service agent from the county to serve in non-voting advisory capacity.

Each board member shall be appointed for a term of four (4) years.

All vacancies in the membership of the board shall be filled for the unexpired term in the same manner as initial appointments. The board shall elect a chairman, and a secretary. The members of the board are not entitled to receive any compensation, but are entitled to such traveling and other expenses as may be necessary in the discharge of their duties. The board may appoint an executive director and employ necessary technical, professional, and other assistants and it shall fix the qualifications, duties, and salaries of these employees subject to the permission of the county council. The county highway supervisor and the soil and water conservation district supervisor or employee serving the county shall serve as inspectors for the board. They shall make periodic inspections and report their findings to the board and the executive director, if any.

SECTION 47. IC 15-3-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 1. The Indiana department of transportation, railroads, drainage districts, township boards, **except township boards of townships in a county having a consolidated city,** public utilities, and other public and quasi-public corporations shall, between July 1 and September 15, do anything possible to restrict the growth and seed production of all Johnson grass growing on lands for which they are responsible in a municipality or township of this state.

SECTION 48. IC 15-5-9-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 0.5. As used in this chapter, "assessor" means:

- (1) for a township located in a county not having a consolidated city:
  - (A) the township assessor elected under IC 36-6-5-1; or
  - (B) the township trustee who is required by law to act as the assessor for the township the trustee serves; or
- (2) for a township located in a county having a consolidated city, the controller of the consolidated city or the controller's designee.

SECTION 49. IC 15-5-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. (a) The township assessor shall make a diligent census as to the number of dogs owned, harbored, or kept by any person. A person owning or harboring a dog shall pay immediately to the township assessor a tax for each dog owned, harbored, or kept on the same premises, whether owned by that person or some other person, as follows:

- (1) Except as provided in subsection (d), for each neutered dog, two dollars (\$2).
- (2) For each nonneutered dog, four dollars (\$4).
- (3) For each additional dog, six dollars (\$6).

No dog under six (6) months of age is subject to any tax under this chapter. Whoever becomes the owner or harborer of a dog after the dog census by the township assessor or any owner or harborer of a dog for which for any reason the assessor failed to collect the tax, shall, within thirty (30) days after becoming the owner or harborer of a dog, apply to the assessor, or the assessor's designee, pay the required fee, and procure a tag for the dog.

(b) Dogs kept in kennels for breeding, boarding, or training purposes or for sale shall not be assessed an individual license fee, but the owner or keeper shall pay a kennel license fee according to the following schedule:

- (1) For a major kennel, consisting of fifteen (15) or more dogs, a fee of thirty dollars (\$30).
- (2) For a minor kennel, consisting of less than fifteen (15) dogs, a fee of twenty dollars (\$20).

For each individual dog tag or kennel license issued under this chapter, the township assessor ~~(or trustee who collects the fee)~~ shall retain from the fee described in this section, an administrative fee of fifty cents (\$0.50). Administrative fees collected by ~~the an~~ **an assessor other than a township trustee** shall be deposited in the county general fund, and administrative fees collected by ~~the a~~ **a township trustee** shall be deposited in the township general fund.

(c) Upon the payment of the license fee required by subsection (b), the township assessor shall deliver to the owner or keeper of the kennel a proper license together with a metallic tag for each dog in such kennel. The license shall be dated and numbered and shall bear the name of the county issuing it and the name and address of the owner of the kennel licensed, and a description of the breed, number,

sex, and age of the dogs kept in such kennel. Any person becoming the owner of a dog kennel shall, within thirty (30) days after becoming the owner, apply to the ~~township~~ assessor, township trustee, or assessor's designee and, upon payment of the required fee, procure a license and a metallic tag for all dogs kept in the kennel.

(d) A county council may increase the tax on neutered dogs imposed under subsection (a) from two dollars (\$2) to three dollars (\$3).

(e) ~~A township~~ **An assessor (or a township trustee who has the duties of a township assessor)** may designate one (1) or more licensed veterinarians or humane societies in the assessor's township **or county, as the case may be**, to collect the dog taxes and kennel license fees and issue the licenses under this chapter. A designee may retain seventy-five cents (\$0.75) as a fee for that service and remit the balance of the money collected to the ~~township trustee assessor who designated the designee~~ by the tenth day of each month. As used in this subsection, "humane society" includes an animal shelter, animal control center, or other animal impounding facility that has as its purpose the humane treatment of animals.

SECTION 50. IC 15-5-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 2. (a) The ~~township~~ assessor shall give to each person a receipt for the money paid the assessor, which shall be designated for dog tax. The receipt shall show the person's name who owns, harbors, or keeps the dog, the amount paid, and the number, description, and kind of dogs paid for, whether male or female, and the number of each. The receipt relieves the person owning, keeping, or harboring dogs for the current year, extending one (1) year from its date. The assessor shall keep a record of persons owning dogs subject to taxation and a record of the dogs paid for. The assessor shall keep a stub record or copy of the receipts given for money paid as dog tax. The stub record shall show the amount paid, the number of dogs, both male and female, paid for, and the person's name owning the dogs paid for. At the time when the receipt is issued to the person, the assessor shall give to the person a tag, which shall be attached to the collar worn by the dog.

(b) Before July 1 each year, the ~~township~~ assessor, **except an assessor in a county having a consolidated city**, shall turn over to the township trustee all the records kept by the assessor relating to the collecting and payment of dog taxes and kennel license fees, and a copy of all receipts given by the assessor to persons having paid dog taxes and kennel license fees, and all money received by the assessor as dog taxes, and all tags left in the assessor's possession. The assessor shall assess against each person who failed to pay to the assessor the amount of any license fee owed by the person, and the amount of the license fees shall be placed upon the tax duplicate by the county auditor and collected as taxes are collected.

(c) From July 1 each year until March 1 of the next year, the ~~township trustee assessor~~ shall receive any license fees subject to be paid under this chapter and issue any licenses under this chapter that may be received or issued by the ~~township~~ assessor under this chapter.

SECTION 51. IC 15-5-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. **This section does not apply to a township in a county having a consolidated city or to a consolidated city.** The ~~township~~ assessor shall, before July 1 each year, report the amount collected as dog tax and kennel license fees to the county auditor. The dog taxes and kennel license fees collected by ~~the a township~~ assessor shall be turned over by the ~~township~~ assessor to the township trustee of the ~~township~~ assessor's township. The county auditor shall make a record of the same, and charge the amount stated in the report against the township trustee as receipts from the county dog fund.

SECTION 52. IC 15-5-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 4. (a) Each ~~township~~ assessor shall perform the duties imposed by this chapter. If a dog owner has failed to turn in a dog for taxation purposes, the assessor shall notify the owner that the assessor is listing the unpaid taxes within a period of ten (10) days, at which time the person will be assessed double the amount of taxes provided by this chapter unless the person owning the dog appears voluntarily within the ten (10) days and:

(1) proves to the satisfaction of the assessor that the person owned no such dog at the time the census was made; or

(2) makes an affidavit to be kept on file by the assessor to the effect that the failure to report a dog for taxation was not intentional and was not purposely omitted for the purpose of avoiding payment of taxes.

(b) Each assessor shall keep a complete list of all dogs subject to the tax under this chapter together with the names of their owners on record in the assessor's office at all times and available to the public. If any person shall acquire, own, harbor, or keep any dog after the assessor has completed the census, the person shall report the dog to and pay to the assessor the amount of dog tax as provided in this chapter and receive a receipt and tag for the payment. The receipt and tag exempts the person from further payment of dog tax on dogs described in the receipt for one (1) year from the date of the receipt.

SECTION 53. IC 15-5-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 5. ~~A township~~ **An assessor or assessor's designee or township trustee** who:

(1) fails to perform the duties imposed by this chapter; or

(2) fails to make a complete report within the time specified in this chapter;

commits a Class C infraction.

SECTION 54. IC 15-5-9-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 6. Every person liable to taxation in any township and residing in the township when listed for taxation shall make and subscribe to an oath to the ~~township~~ assessor in which the person states the number of dogs neutered or unneutered over the age of six (6) months and owned or harbored by the person.

SECTION 55. IC 15-5-9-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 8. (a) All money derived by the taxing of dogs under this chapter shall constitute a fund known as the township dog fund **or, in the case of a township located in a county having a consolidated city, the county dog fund** that the township trustee **or, in the case of a township located in a county having a consolidated city, the controller of the consolidated city**, shall use in the manner provided in this chapter for the payment of the following:

(1) Damages, less insurance proceeds, sustained by owners of the following stock, fowl, or game killed, maimed, or damaged by dogs:

(A) Sheep.

(B) Cattle.

(C) Horses.

(D) Swine.

(E) Goats.

(F) Mules.

(G) Chickens.

(H) Geese.

(I) Turkeys.

(J) Ducks.

(K) Guineas.

(L) Tame rabbits.

(M) Game birds and game animals held in captivity under authority of a game breeder's license issued by the department of natural resources.

(N) Bison.

(O) Farm raised cervidae.

(P) Ratitae.

(2) The expense of taking the Pasteur treatment for hydrophobia incurred by any person bitten by or exposed to a dog known to have hydrophobia. ~~within any township of Indiana.~~

(b) Any person requiring the treatment described in subsection (a)(2) may select the person's own physician.

(c) No damages shall be assessed or paid under this chapter on sheep except where individual damage exists or is shown.

(d) This subsection applies to a county whose legislative body has acted under this subsection. A county legislative body may designate by ordinance one (1) humane society located in that county to receive fifty cents (\$0.50) from each dog tax payment collected under this chapter.

(e) A humane society designated under subsection (d) shall use the funds disbursed to the society to maintain an animal shelter.

(f) If a county does not designate a humane society to receive payments under subsection (d), those amounts remain in the township

dog fund **or, in the case of a county having a consolidated city, the county dog fund.**

SECTION 56. IC 15-5-9-9.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 9.1. (a) ~~In order~~ To qualify for payment for damages by a township trustee **or, in the case of a township located in a county having a consolidated city, the controller of the consolidated city** under this chapter, the owner of stock, fowl, or game listed in section 8(a)(1) of this chapter killed, maimed, or damaged by dogs shall do the following:

(1) Not more than seventy-two (72) hours after the time of the loss, notify one (1) of the following having jurisdiction in the location where the loss occurred:

(A) A law enforcement officer.

(B) An officer of a county or municipal animal control center, shelter, or similar impounding facility.

(2) Within twenty (20) days from the time of the loss, report the loss to the trustee ~~of his township of the owner's township or, in a township located in a county having a consolidated city, to the controller of the consolidated city~~ as follows:

(A) Under oath, the owner shall state:

(i) the number, age, and value of the stock, fowl, or game; and

(ii) the damages, less any insurance proceeds, sustained.

(B) In an affidavit, the owner must be joined by two (2) disinterested and reputable freeholders residing in the township in which the stock, fowl, or game were killed, maimed, or damaged. The affidavit must state that the freeholders are:

(i) disinterested; and

(ii) not related by blood or marriage to the claimant.

(C) No appraisal may exceed the actual cash value of the stock, fowl, or game. As it applies to ratitae, cash value is no more than the slaughter value.

(D) The owner shall provide verification of the loss by an officer under subdivision (1).

(E) No loss shall be paid for property owned by a claimant on the last property tax assessment date if the property was not reported by the owner for assessment purposes at that time.

(b) An officer who receives notice under subsection (a)(1) shall visit the scene of the loss, verify the loss in writing, and mark the animal so that the animal can support only one (1) claim under this chapter.

SECTION 57. IC 15-5-9-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 10. (a) The ~~trustees township trustee or the controller of the consolidated city~~ shall register and pay damages for all losses in the order in which the losses are reported.

(b) A person may not receive payment from the trustee **or the controller of the consolidated city** for stock, fowl, or game listed in section 8(a)(1) of this chapter:

(1) that are killed, maimed, or damaged by any dog or dogs owned or harbored by that person;

(2) for which the person received from another person an amount equal to the actual damages; or

(3) for which the owner has not complied with section 9.1 of this chapter.

(c) When rabies shall develop in any stock, fowl, or game listed in section 8(a)(1) of this chapter, however contracted, and when the existence of such disease shall be proven by:

(1) laboratory diagnosis, made in the laboratory of the state department of health, or some other laboratory maintained by state, county, or municipal funds; or

(2) affidavit of an attending legally qualified graduate veterinarian;

the owner of such animal with rabies shall be entitled to recover in the same amount and manner as provided in sections 8 and 9.1 of this chapter.

(d) Whenever any dog not accompanied by the dog's owner or owner's agent is suspected of having rabies and found roaming at large, and the dog dies or is destroyed on said account, the **township trustee or controller of the consolidated city** shall do the following:

(1) Remove or have removed the head of the dog.

(2) Pay from the township dog fund **or, in the case of a township located in a county having a consolidated city, the county dog fund**, the following:

(A) A reasonable fee for the removal of the dog's head.

(B) All charges for transporting the head to a laboratory maintained by state, county, or municipal funds. If no money is available in the **appropriate** dog fund, ~~of the township~~; then such necessary fees shall be paid out of the township **general fund or, in the case of a township located in a county having a consolidated city, the county general fund**, without appropriations having been made.

(e) On the first Monday of March of each year, the township shall transfer the following to the county treasurer:

(1) Any funds in a township dog fund designated for a humane society under section 8 of this chapter.

(2) Any amount in a township dog fund exceeding three hundred dollars (\$300) over and above orders drawn on the fund.

(f) The funds transferred to the county treasurer under subsection (e) shall be deposited in the county dog fund. On the second Monday in March of each year, the money in the county dog fund shall be distributed as follows:

(1) **Except for a township located in a county having a consolidated city**, among the townships of the county in which the orders drawn against the dog fund exceed the money on hand.

(2) To a humane society designated under section 8 of this chapter.

(g) If the funds in the county dog fund, after any distribution to a designated humane society, are insufficient to pay for all stock, fowl, or game listed in section 8(a)(1) of this chapter that are killed, maimed, or damaged by dogs ~~of all the townships~~ in the county, the distribution shall be made, **except in a township located in a county having a consolidated city**, in the ratio of the orders drawn against the dog fund of the townships and unpaid and unprovided for. The ratio shall be obtained from the report of the trustees of the townships made to the auditor of the county.

(h) The report under subsection (g) shall be made by each township trustee of the county upon the first Monday of March of each year and must show the following:

(1) All receipts into the dog fund of the township.

(2) All orders drawn against the township fund in the order in which the orders were drawn.

(i) If the funds in the dog fund of any township and the share of the county dog fund distributed to such township during any year **or, in the case of a township located in a county having a consolidated city, the county dog fund**, are insufficient to pay for all stock, fowl, and game listed in section 8(a)(1) of this chapter that are killed, maimed, or damaged by dogs in such township **or county, as the case may be**, during such year, any such losses registered and any orders drawn which are unpaid and unprovided for shall be paid out of the state dog account.

(j) If upon the first Monday in May of any year there is a surplus left of the county dog fund after provisions have been made for the payment of all stock, fowl, and game listed in section 8(a)(1) of this chapter that are killed, maimed, or damaged by dogs of all the townships of the county and the distribution to any designated humane society, the surplus shall be:

(1) paid to the auditor of state; and

(2) placed in a separate account of the general fund of the state treasury known as the state dog account.

SECTION 58. IC 15-5-9-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 11. On or before the first day of May of each year, the trustee of each township shall make a report in writing, to the county auditor, of the amount of all claims in ~~his the trustee's~~ township for livestock, fowls, or game which have been destroyed or damaged by dogs, and which claims have been filed before March 9, 1937, or which may be filed thereafter but have not been paid for lack of funds. On or before the second Monday in May of each year, the auditor of each county, **or in a county having a consolidated city, the controller of the consolidated city**, shall make a report, in writing, to the auditor of state, in such form as the auditor of state shall prescribe, of the

amount of all such claims in ~~his~~ the county which have been filed and which have not been paid for lack of funds, and on or before the second Monday in July, the auditor of state shall issue ~~his~~ the auditor's warrant, payable to the auditor of each such county **or, in a county having a consolidated city, the controller of the consolidated city**, for the amount of the unpaid claims. The warrant shall be drawn on the state dog account. Upon the receipt of the money, the auditor of the county **or, in a county having a consolidated city, the controller of the consolidated city**, shall distribute the funds to the respective townships of ~~his~~ the county entitled thereto **or, in the case of a county having a consolidated city, to the appropriate fund of the consolidated city**, and the trustee of the township **or controller of a consolidated city** shall pay all unpaid claims of ~~his~~ the township **or county** in the order in which the claims were filed. If in any year there is not sufficient money in the state dog account to pay all of the claims, the auditor of state shall make such distribution, as near as practicable, in proportion to the aggregate value of livestock, fowls, or game for the destruction of which or the damage to which claims have been filed in the respective counties, and the county auditor, **except in a county having a consolidated city**, shall distribute the money so received to the several townships in the same proportion. All money in excess of fifty thousand dollars (\$50,000) remaining in the state dog account, after such annual distribution shall have been made as hereinbefore provided, shall be distributed by the auditor of state in the manner following:

- (~~a~~) (1) One-half (1/2) of such excess or one hundred thousand dollars (\$100,000) of such excess, whichever sum is the lesser, shall be distributed to Purdue University for the School of Veterinary Science and Medicine to be used solely for canine disease research.
- (~~b~~) (2) The balance remaining of such excess, after the distribution to Purdue University is made as hereinbefore provided, shall be distributed to the general fund of each county in direct proportion to the total amount of money paid into the dog account on the second Monday in May by the county prior to the distribution.

Of the funds returned to the respective counties the county may, with the approval of the county commissioners and the county council, construct dog pounds within said counties.

SECTION 59. IC 15-5-9-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 12. (a) At the time when the dog kennel license fee is paid to the ~~township~~ assessor, the assessor, at the time when the assessor issues a receipt, shall likewise furnish to the person a metal tag. The metal tag furnished shall be attached securely to the collar of the dog for which the license fee has been paid and the collar, with the tag attached, shall be worn continuously by the dog.

(b) All license tags shall be of uniform design or color for any one (1) year, but the same color or shape shall not be used for any two (2) consecutive years. All tags shall be designed by the auditor of state, shall be paid for out of the state dog account, and shall be manufactured at the state prison in the same manner as motor vehicle registration plates. Each tag shall have a distinct number and the number of the tag shall appear on the receipt issued to the owner of the dog.

(c) If any dog tag is lost, it shall be replaced without cost by the assessor upon application by the owner of the dog and upon the production of the receipt and a sworn statement of the facts regarding the loss of the tag. No license tag is transferable to another dog.

SECTION 60. IC 23-14-33-7.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 7.5. "Cemetery fund" means the:

- (1) township fund for a township in a county not having a consolidated city; or
- (2) cemetery fund of the consolidated city for a township in a county having a consolidated city.

SECTION 61. IC 23-14-33-32.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 32.5. "Township" means:

- (1) a township in a county not having a consolidated city; or
- (2) the consolidated city for a township in a county having

a consolidated city.

SECTION 62. IC 23-14-33-32.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 32.6. "Township trustee" or "trustee" means:

- (1) a township trustee for a township in a county not having a consolidated city; or
- (2) the consolidated city for a township in a county having a consolidated city.

SECTION 63. IC 23-14-64-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 4. All expenses incurred by the trustee in administering this chapter shall be paid out of the ~~township~~ cemetery fund of the township.

SECTION 64. IC 23-14-68-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 4. (a) The township shall appropriate enough money to provide for the care, repair, and maintenance of each cemetery described in section 1(a) of this chapter that is located within the township. Funds shall be appropriated under this subsection in the same manner as other ~~township~~ appropriations.

(b) The township may levy a ~~township~~ cemetery tax to create a fund for maintenance of cemeteries under this chapter. If a fund has not been provided for maintenance of cemeteries under this chapter, part of the township fund **or other funds of the township** may be used.

SECTION 65. IC 23-14-69-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 5. (a) If:

- (1) no land suitable for a public cemetery is donated to a township; and
- (2) if the township legislative body adopts a resolution approving the purchase;

the township ~~executive~~ may purchase land for the purpose of establishing a public cemetery.

(b) When land is purchased and conveyed to the township under subsection (a), the land must be set apart, kept in repair, and used as provided in section 6 of this chapter.

SECTION 66. IC 23-14-69-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 9. All expenses incurred by the township trustee for administering this chapter shall be paid out of the ~~township~~ cemetery fund of the township.

SECTION 67. IC 32-21-2-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 13. (a) If the auditor of the county or the ~~township~~ assessor **for a township** under IC 6-1.1-5-9 and IC 6-1.1-5-9.1 determines it necessary, an instrument transferring fee simple title to less than the whole of a tract that will result in the division of the tract into at least two (2) parcels for property tax purposes may not be recorded unless the auditor or township assessor is furnished a drawing or other reliable evidence of the following:

- (1) The number of acres in each new tax parcel being created.
- (2) The existence or absence of improvements on each new tax parcel being created.
- (3) The location within the original tract of each new tax parcel being created.

(b) Any instrument that is accepted for recording and placed of record that bears the endorsement required by IC 36-2-11-14 is presumed to comply with this section.

SECTION 68. IC 32-26-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 2. (a) The trustee of each township, the county highway superintendent, the Indiana department of transportation, or other officer in control of the maintenance of a highway shall between January 1 and April 1 of each year, examine all hedges, live fences, natural growths along highways, and other obstructions described in section 1 of this chapter in their respective jurisdictions. **However, in a county having a consolidated city, the duties and obligations of a township trustee under this chapter are the responsibility of the consolidated city.** If there are hedges, live fences, other growths, or obstructions along the highways that have not been cut, trimmed down, and maintained in accordance with this chapter, the owner shall be given written notice to cut or trim the hedge or live fence and to burn the brush trimmed from the hedge or live fence and remove any other obstructions or growths.

(b) The notice required under subsection (a) must be served by reading the notice to the owner or by leaving a copy of the notice at the owner's usual place of residence.

(c) If the owner is not a resident of the township, county, or state where the hedge, live fence, or other obstructions or growth is located, the notice shall be served upon the owner's agent or tenant residing in the township, **county, or state**. If an agent or a tenant of the owner does not reside in the township, the notice shall be served by mailing a copy of the notice to the owner, directed to the owner's last known post office address.

(d) If the owner, agents, or tenants do not proceed to cut and trim the fences and burn the brush trimmed from the fences or remove any obstructions or growths within ten (10) days after notice is served, the township trustee, **consolidated city**, county highway superintendent, or Indiana department of transportation shall immediately:

- (1) cause the fences to be cut and trimmed or obstructions or growths removed in accordance with this chapter; and
- (2) burn the brush trimmed from the fences.

All expenses incurred under this subsection shall be assessed against and become a lien upon the land in the same manner as road taxes.

(e) The township trustee, **consolidated city**, county highway superintendent, or Indiana department of transportation having charge of the work performed under subsection (d) shall prepare an itemized statement of the total cost of the work of removing the obstructions or growths and shall sign and certify the statement to the county auditor of the county in which the land is located. The county auditor shall place the statement on the tax duplicates. The county treasurer shall collect the costs entered on the duplicates at the same time and in the same manner as road taxes are collected. The treasurer may not issue a receipt for road taxes unless the costs entered on the duplicates are paid in full at the same time the road taxes are paid. If the costs are not paid when due, the costs shall become delinquent, bear the same interest, be subject to the same penalties, and be collected at the same time and in the same manner as other unpaid and delinquent taxes.

SECTION 69. IC 32-26-9-0.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: **Sec. 0.6. As used in this chapter, "township" means:**

- (1) a township in a county not having a consolidated city; or
- (2) the consolidated city for a township in a county having a consolidated city.

SECTION 70. IC 32-26-9-0.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: **Sec. 0.7. As used in this chapter, "township trustee" or "trustee" means:**

- (1) a township trustee for a township in a county not having a consolidated city; or
- (2) the consolidated city for a township in a county having a consolidated city.

SECTION 71. IC 32-26-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: **Sec. 3.** (a) A partition fence shall be built, rebuilt, and kept in repair at the cost of the property owners whose properties are enclosed or separated by the fences proportionately according to the number of rods or proportion of the fence the property owner owns along the line of the fence, whether the property owner's title is a fee simple or a life estate.

(b) If a property owner fails or refuses to compensate for building, rebuilding, or repairing the property owner's portion of a partition fence, another property owner who is interested in the fence, after having built, rebuilt, or repaired the property owner's portion of the fence, shall give to the defaulting property owner or the defaulting property owner's agent or tenant twenty (20) days notice to build, rebuild, or repair the defaulting property owner's portion of the fence. If the defaulting property owner or the defaulting property owner's agent or tenant fails to build, rebuild, or repair the fence within twenty (20) days, the complaining property owner shall notify the township trustee of the township in which the properties are located of the default.

(c) This subsection applies if the fence sought to be established, rebuilt, or repaired is on a township line. Unless disqualified under subsection (h), the complaining property owner shall notify the trustee of the township in which the property of the complaining property

owner is located of the default under subsection (b), and the trustee has jurisdiction in the matter.

(d) The township trustee who receives a complaint under this section shall:

- (1) estimate the costs for building, rebuilding, or repairing the partition fence; and
- (2) within a reasonable time after receiving the complaint, make out a statement and notify the defaulting property owner of the probable cost of building, rebuilding, or repairing the fence.

If twenty (20) days after receiving a notice under this subsection the defaulting property owner has not built, rebuilt, or repaired the fence, the trustee shall build or repair the fence. The trustee may use only the materials for the fences that are most commonly used by the farmers of the community.

(e) If the trustee of a township is disqualified to act under subsection (h), the trustee of an adjoining township who resides nearest to where the fence is located shall act on the complaint upon receiving a notice by a property owner who is interested in the fence.

(f) A lawful partition fence is any one (1) of the following that is sufficiently tight and strong to hold cattle, hogs, horses, mules, and sheep:

- (1) A straight board and wire fence, a straight wire fence, a straight board fence, or a picket fence four (4) feet high.
- (2) A straight rail fence four and one-half (4 1/2) feet high.
- (3) A worm rail fence five (5) feet high.

(g) This subsection applies if a ditch or creek crosses the division line between two (2) property owners, causing additional expense in the maintenance of the part over the stream. If the property owners cannot agree upon the proportionate share of each property owner, the township trustee shall appoint three (3) disinterested citizens who shall apportion the partition fence to be built by each property owner.

(h) If a township trustee is:

- (1) related to any of the interested property owners; or
- (2) an interested property owner;

the trustee of any other township who resides nearest to where the fence is located shall **appoint another official to act** under this chapter.

(i) This subsection applies if a ditch or creek forms, covers, or marks the dividing line or a part of the dividing line between the properties of separate and different property owners so that partition fences required under this chapter cannot be built and maintained on the dividing line. The partition fences shall be built and maintained under this chapter as near to the boundary line as is practical, and each property owner shall build a separate partition fence on the property owner's property and maintain the fence at the property owner's cost.

(j) This subsection applies where a partition fence required under this chapter crosses a ditch or creek and it is impracticable to construct or maintain that portion of the fence that crosses the ditch or creek as a stationary fence. Instead of the portion of the fence that would cross the ditch or creek, there shall be constructed, as a part of the partition fence, floodgates or other similar structures that are sufficiently high, tight, and strong to turn hogs, sheep, cattle, mules, and horses or other domestic animals. The floodgates or other similar structures shall be constructed to swing up in times of high water and to connect continuously with the partition fences.

(k) This subsection applies if the building and maintenance of the floodgates or other similar structure required under subsection (j) causes additional expenses and the property owners cannot agree upon the character of floodgates or other similar structure, or upon the proportionate share of the cost to be borne by each property owner. The township trustee, upon notice in writing from either property owner of a disagreement and the nature of the disagreement, shall appoint three (3) disinterested citizens of the township who shall determine the kind of structure and apportion the cost of the floodgate or other structure between the property owners, taking into consideration the parts of the fence being maintained by each property owner.

(l) The determination of a majority of the arbitrators of any matter or matters submitted to them under this section is final and binding on each property owner. The compensation of the arbitrators is two dollars (\$2) each, which shall be paid by the property owners in the proportion each property owner is ordered to bear the expense of a

gate or structure.

(m) This subsection applies if either or both of the property owners fail to construct or compensate for constructing the structure determined upon by the arbitrators in the proportion determined within thirty (30) days after the determination. The township trustee shall proceed at once to construct the gate or structure and collect the cost of the gate or structure, including the compensation of the arbitrators, from the defaulting property owner in the same manner as is provided for ordinary partition fences. The floodgate or other structure shall be repaired, rebuilt, or replaced according to the determination of the arbitrators.

SECTION 72. IC 32-28-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. (a) A contractor, a subcontractor, a mechanic, a lessor leasing construction and other equipment and tools, whether or not an operator is also provided by the lessor, a journeyman, a laborer, or any other person performing labor or furnishing materials or machinery, including the leasing of equipment or tools, for:

(1) the erection, alteration, repair, or removal of:

(A) a house, mill, manufactory, or other building; or

(B) a bridge, reservoir, system of waterworks, or other structure;

(2) the construction, alteration, repair, or removal of a walk or sidewalk located on the land or bordering the land, a stile, a well, a drain, a drainage ditch, a sewer, or a cistern; or

(3) any other earth moving operation;

may have a lien as set forth in this section.

(b) A person described in subsection (a) may have a lien separately or jointly upon the:

(1) house, mill, manufactory, or other building, bridge, reservoir, system of waterworks, or other structure, sidewalk, walk, stile, well, drain, drainage ditch, sewer, cistern, or earth:

(A) that the person erected, altered, repaired, moved, or removed; or

(B) for which the person furnished materials or machinery of any description; and

(2) on the interest of the owner of the lot or parcel of land:

(A) on which the structure or improvement stands; or

(B) with which the structure or improvement is connected;

to the extent of the value of any labor done or the material furnished, or both, including any use of the leased equipment and tools.

(c) All claims for wages of mechanics and laborers employed in or about a shop, mill, wareroom, storeroom, manufactory or structure, bridge, reservoir, system of waterworks or other structure, sidewalk, walk, stile, well, drain, drainage ditch, cistern, or any other earth moving operation shall be a lien on all the:

(1) machinery;

(2) tools;

(3) stock;

(4) material; or

(5) finished or unfinished work;

located in or about the shop, mill, wareroom, storeroom, manufactory or other building, bridge, reservoir, system of waterworks, or other structure, sidewalk, walk, stile, well, drain, drainage ditch, sewer, cistern, or earth used in a business.

(d) If the person, firm, limited liability company, or corporation described in subsection (a) is in failing circumstances, the claims described in this section shall be preferred debts whether a claim or notice of lien has been filed.

(e) Subject to subsection (f), a contract:

(1) for the construction, alteration, or repair of a Class 2 structure (as defined in IC 22-12-1-5);

(2) for the construction, alteration, or repair of an improvement on the same real estate auxiliary to a Class 2 structure (as defined in IC 22-12-1-5);

(3) for the construction, alteration, or repair of property that is:

(A) owned, operated, managed, or controlled by a:

(i) public utility (as defined in IC 8-1-2-1);

(ii) municipally owned utility (as defined in IC 8-1-2-1);

(iii) joint agency (as defined in IC 8-1-2.2-2);

(iv) rural electric membership corporation formed under IC 8-1-13-4;

(v) rural telephone cooperative corporation formed under

IC 8-1-17; or

(vi) not-for-profit utility (as defined in IC 8-1-2-125); regulated under IC 8; and

(B) intended to be used and useful for the production, transmission, delivery, or furnishing of heat, light, water, telecommunications services, or power to the public; or

(4) to prepare property for Class 2 residential construction;

may include a provision or stipulation in the contract of the owner and principal contractor that a lien may not attach to the real estate, building, structure, or any other improvement of the owner.

(f) A contract containing a provision or stipulation described in subsection (e) must meet the requirements of this subsection to be valid against subcontractors, mechanics, journeymen, laborers, or persons performing labor upon or furnishing materials or machinery for the property or improvement of the owner. The contract must:

(1) be in writing;

(2) contain specific reference by legal description of the real estate to be improved;

(3) be acknowledged as provided in the case of deeds; and

(4) be filed and recorded in the recorder's office of the county in which the real estate, building, structure, or other improvement is situated not more than five (5) days after the date of execution of the contract.

A contract containing a provision or stipulation described in subsection (e) does not affect a lien for labor, material, or machinery supplied before the filing of the contract with the recorder.

(g) Upon the filing of a contract under subsection (f), the recorder shall:

(1) record the contract at length in the order of the time it was received in books provided by the recorder for that purpose;

(2) index the contract in the name of the:

(A) contractor; and

(B) owner;

in books kept for that purpose; and

(3) collect a fee for recording the contract as is provided for the recording of deeds and mortgages.

(h) A person, firm, partnership, limited liability company, or corporation that sells or furnishes on credit any material, labor, or machinery for the alteration or repair of an owner occupied single or double family dwelling or the appurtenances or additions to the dwelling to:

(1) a contractor, subcontractor, mechanic; or

(2) anyone other than the occupying owner or the owner's legal representative;

must furnish to the occupying owner of the parcel of land where the material, labor, or machinery is delivered a written notice of the delivery or work and of the existence of lien rights not later than thirty (30) days after the date of first delivery or labor performed. The furnishing of the notice is a condition precedent to the right of acquiring a lien upon the lot or parcel of land or the improvement on the lot or parcel of land.

(i) A person, firm, partnership, limited liability company, or corporation that sells or furnishes on credit material, labor, or machinery for the original construction of a single or double family dwelling for the intended occupancy of the owner upon whose real estate the construction takes place to a contractor, subcontractor, mechanic, or anyone other than the owner or the owner's legal representatives must:

(1) furnish the owner of the real estate:

(A) as named in the latest entry in the transfer books described in IC 6-1.1-5-4 of the county auditor; or

(B) if IC 6-1.1-5-9 applies, as named in the transfer books of the **township assessor for the township**;

with a written notice of the delivery or labor and the existence of lien rights not later than sixty (60) days after the date of the first delivery or labor performed; and

(2) file a copy of the written notice in the recorder's office of the county not later than sixty (60) days after the date of the first delivery or labor performed.

The furnishing and filing of the notice is a condition precedent to the right of acquiring a lien upon the real estate or upon the improvement constructed on the real estate.

(j) A lien for material or labor in original construction does not

attach to real estate purchased by an innocent purchaser for value without notice of a single or double family dwelling for occupancy by the purchaser unless notice of intention to hold the lien is recorded under section 3 of this chapter before recording the deed by which the purchaser takes title.

SECTION 73. IC 32-28-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. (a) Except as provided in subsection (b), a person who wishes to acquire a lien upon property, whether the claim is due or not, must file in duplicate a sworn statement and notice of the person's intention to hold a lien upon the property for the amount of the claim:

- (1) in the recorder's office of the county; and
- (2) not later than ninety (90) days after performing labor or furnishing materials or machinery described in section 1 of this chapter.

The statement and notice of intention to hold a lien may be verified and filed on behalf of a client by an attorney registered with the clerk of the supreme court as an attorney in good standing under the requirements of the supreme court.

(b) This subsection applies to a person that performs labor or furnishes materials or machinery described in section 1 of this chapter related to a Class 2 structure (as defined in IC 22-12-1-5) or an improvement on the same real estate auxiliary to a Class 2 structure (as defined in IC 22-12-1-5). A person who wishes to acquire a lien upon property, whether the claim is due or not, must file in duplicate a sworn statement and notice of the person's intention to hold a lien upon the property for the amount of the claim:

- (1) in the recorder's office of the county; and
- (2) not later than sixty (60) days after performing labor or furnishing materials or machinery described in section 1 of this chapter.

The statement and notice of intention to hold a lien may be verified and filed on behalf of a client by an attorney registered with the clerk of the supreme court as an attorney in good standing under the requirements of the supreme court.

(c) A statement and notice of intention to hold a lien filed under this section must specifically set forth:

- (1) the amount claimed;
- (2) the name and address of the claimant;
- (3) the owner's:
  - (A) name; and
  - (B) latest address as shown on the property tax records of the county; and
- (4) the:
  - (A) legal description; and
  - (B) street and number, if any;

of the lot or land on which the house, mill, manufactory or other buildings, bridge, reservoir, system of waterworks, or other structure may stand or be connected with or to which it may be removed.

The name of the owner and legal description of the lot or land will be sufficient if they are substantially as set forth in the latest entry in the transfer books described in IC 6-1.1-5-4 of the county auditor or, if IC 6-1.1-5-9 applies, the transfer books of the ~~township~~ assessor for the township at the time of filing of the notice of intention to hold a lien.

(d) The recorder shall:

- (1) mail, first class, one (1) of the duplicates of the statement and notice of intention to hold a lien to the owner named in the statement and notice not later than three (3) business days after recordation;
- (2) post records as to the date of the mailing; and
- (3) collect a fee of two dollars (\$2) from the lien claimant for each statement and notice that is mailed.

The statement and notice shall be addressed to the latest address of the owner as specifically set out in the sworn statement and notice of the person intending to hold a lien upon the property.

SECTION 74. IC 32-31-3-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 11. (a) The following courts have original and concurrent jurisdiction in cases arising under this chapter:

- (1) A circuit court.
- (2) A superior court.

(3) A county court.

(4) A municipal court.

~~(5) A small claims court.~~

(b) A case arising under this chapter may be filed on the small claims docket of a court that has jurisdiction.

SECTION 75. IC 33-23-11-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 7. (a) As used in this chapter, "judge" means a judge of the court of appeals, the tax court, ~~or~~ a circuit, superior, county, ~~small claims~~, or probate court, **or a small claims judge (as defined in IC 33-33-49-5.2).**

(b) The term includes a judge pro tempore, commissioner, or hearing officer if the judge pro tempore, commissioner, or hearing officer sits more than twenty (20) days other than Saturdays, Sundays, or holidays in one (1) calendar year as a judge, commissioner, or hearing officer in any court.

SECTION 76. IC 33-23-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 2. (a) As used in this chapter, "court employee" means a person employed by any of the following:

- (1) The supreme court.
- (2) The court of appeals.
- (3) The tax court.
- (4) A circuit court.
- (5) A superior court.
- (6) A juvenile court.
- (7) A probate court.
- (8) A county court.
- (9) A municipal court.
- (10) A city or town court.
- ~~(11) A small claims court.~~

(b) The term does not include a judge **or small claims judge (as defined in IC 33-33-49-5.2)** of any of the courts listed in subsection (a)(1) through ~~(a)(11)~~: **(a)(10)**.

SECTION 77. IC 33-30-2-1, AS AMENDED BY P.L.237-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. (a) A county court is established in the following counties:

- (1) Floyd County.
- (2) Madison County.

(b) However, a county court listed in subsection (a) is abolished if:

- (1) IC 33-33 provides a small claims docket of the circuit court; **or**
- (2) IC 33-33 provides a small claims docket of the superior court; **or**
- ~~(3) IC 33-34 provides a small claims court;~~

for the county in which the county court was established.

SECTION 78. IC 33-33-49-5.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 5.1. (a) As used in this chapter, "judge" means a person elected under section 13 of this chapter.

(b) The term does not include a small claims judge.

SECTION 79. IC 33-33-49-5.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 5.2. As used in this chapter, "small claims judge" means a person elected under:

- (1) section 13.1 of this chapter; or
- (2) IC 33-34-2-1 (before its repeal).

SECTION 80. IC 33-33-49-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 6. (a) There is established a superior court in Marion County. The court consists of the following:

- (1) Thirty-two (32) judges.
- (2) **Nine (9) small claims judges.**

(b) To be qualified to serve as a judge of the court, a person must be, at the time a declaration of candidacy or a petition of nomination under IC 3-8-6 is filed:

- (1) a resident of Marion County; and
- (2) an attorney who has been admitted to the bar of Indiana for at least five (5) years.

(c) To be qualified to serve as a small claims judge, a person must meet the qualifications described in IC 3-8-1-30.

~~(c)~~ (d) During the term of office:

(1) a judge of the court must remain a resident of Marion County; and

(2) a small claims judge must remain a resident of:

(A) Marion County; and

(B) the township from which the small claims judge was elected.

SECTION 81. IC 33-33-49-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 9. (a) Except as provided in subsection (b), the court has the following jurisdiction:

(1) Concurrent and coextensive jurisdiction with the Marion circuit court in all cases and upon all subject matters, including civil, criminal, juvenile, probate, and statutory cases and matters, whether original or appellate.

(2) Original and exclusive jurisdiction in all matters pertaining to the following:

(A) The probate and settlement of decedents' estates, trusts, and guardianships.

(B) The probate of wills.

(C) Proceedings to resist the probate of wills.

(D) Proceedings to contest wills.

(E) The appointment of guardians, assignees, executors, administrators, and trustees.

(F) The administration and settlement of:

(i) estates of protected persons (as defined in IC 29-3-1-13) and deceased persons;

(ii) trusts, assignments, adoptions, and surviving partnerships; and

(iii) all other probate matters.

(3) Original jurisdiction of all violations of Indiana law. Whenever jurisdiction is by law conferred on a small claims court, the court has the appellate jurisdiction provided by law.

(4) Original and exclusive juvenile jurisdiction.

(b) The small claims division of the court established in section 14(c)(5) of this chapter has the following jurisdiction:

(1) The small claims division of the court has original and concurrent jurisdiction with the court and the Marion circuit court in all civil cases founded on contract or tort in which the debt or damage claimed does not exceed six thousand dollars (\$6,000), not including interest or attorney's fees.

(2) The small claims division of the court has original and concurrent jurisdiction with the court and the Marion circuit court in possessory actions between landlord and tenant in which the past due rent at the time of filing does not exceed six thousand dollars (\$6,000), not including interest or attorney's fees.

(3) The small claims division of the court has original and concurrent jurisdiction with the court and the Marion circuit court in actions for the possession of property where the value of the property sought to be recovered does not exceed six thousand dollars (\$6,000), not including interest and attorney's fees.

(4) The small claims division of the court has original and concurrent jurisdiction with the court and the Marion circuit court in emergency possessory actions between a landlord and tenant under IC 32-31-6.

(5) The small claims division of the court does not have jurisdiction in the following:

(A) Actions seeking injunctive relief or involving partition of real estate.

(B) Actions to declare or enforce a lien, except as provided in section 20.5 of this chapter.

(C) Actions in which the appointment of a receiver is asked.

(D) Suits for dissolution or annulment of marriage.

SECTION 82. IC 33-33-49-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 10. (a) Except as provided in subsection (b), the court is a court of record. The court's judgments, decrees, orders, and proceedings have the same effect and shall be enforced in the same manner as those of the circuit court.

(b) The small claims division of the court is not a court of

record.

SECTION 83. IC 33-33-49-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 11. (a) The court may adopt rules for conducting the business of the court. Except as provided in subsection (b), in all matters action of the court may only be taken by a vote of a majority of the judges sitting at the time the vote is taken.

(b) Action of the court to remove the presiding judge or either associate presiding judge may only be taken by a vote of two-thirds (2/3) of the judges sitting at the time the vote is taken.

(c) The court has all the powers incident to a court of record in relation to the attendance of witnesses, punishment of contempts, and enforcement of the court's orders. The judges and small claims judges may administer oaths, solemnize marriages, take and certify acknowledgments of deeds and all legal instruments, and to give all necessary certificates for the authentication of the records and proceedings in the court.

SECTION 84. IC 33-33-49-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 12. A judge of the court may do the following:

(1) Grant restraining orders and injunctions.

(2) Issue writs of habeas corpus.

(3) Appoint receivers, masters, and commissioners to:

(A) convey real property;

(B) grant commissions for the examination of witnesses; and

(C) appoint other officers necessary to transact the business of the court.

SECTION 85. IC 33-33-49-13.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 13.1. (a) A small claims judge shall be elected for a term of four (4) years that begins January 1 after the year of the small claims judge's election and continues through December 31 in the fourth year. The small claims judge shall hold office for the four (4) year term or until the small claims judge's successor is elected and qualified.

(b) A small claims judge shall be elected at the general election every four (4) years by the registered voters residing within the township in which the small claims division of the court is located.

SECTION 86. IC 33-33-49-13.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 13.2. (a) A small claims judge serving part time may participate in other gainful employment if the employment does not:

(1) interfere with the exercise of the small claims judge's judicial office; or

(2) involve any conflict of interest in the performance of the small claims judge's judicial duties.

(b) A small claims judge serving full time may practice law if the practice does not conflict in any way with the small claims judge's official duties and does not:

(1) cause the small claims judge to be unduly absent from the court; or

(2) interfere with the ready and prompt disposal of the small claims judge's judicial duties.

(c) A small claims judge and the employees of the small claims division of the court may be eligible to participate in the public employees' retirement fund as provided in IC 5-10.3, but a small claims judge is not eligible to participate as a member in the judges' retirement fund under IC 33-38.

(d) A vacation of one (1) month per year shall be provided for a full-time small claims judge. The executive committee may authorize the appointment of a small claims judge pro tempore to handle the judicial business of the vacationing small claims judge if the executive committee considers it necessary.

SECTION 87. IC 33-33-49-13.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 13.3. A small claims judge shall:

(1) furnish a bond in a sum required by the circuit court judge to provide for the:

(A) faithful discharge of the duties of the office; and

(B) payment or delivery to the proper persons of

**whatever money or other property may come into the small claims judge's hands when acting as small claims judge; and**

**(2) file the bond with the county recorder.**

**The bond must also extend to cover a person that is appointed to act as a small claims judge under section 13.4 of this chapter.**

SECTION 88. IC 33-33-49-13.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 13.4. (a) If a small claims judge is unable to preside over the small claims judge's division of the small claims court during any number of days, the small claims judge may appoint in writing a person qualified to be a small claims judge under section 6(c) of this chapter to preside in place of the small claims judge.**

**(b) The written appointment shall be entered on the order book or record of the superior court. The appointee shall, after taking the oath prescribed for the small claims judges, conduct the business of the division subject to the same rules and regulations as small claims judges and has the same authority during the continuance of the appointee's appointment.**

**(c) The appointee is entitled to the same compensation from the county auditor as accruable to the small claims judge in whose place the appointee is serving.**

SECTION 89. IC 33-33-49-13.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 13.5. (a) A small claims judge absent from the bench for more than thirty (30) days shall deposit the dockets, books, and papers of the office with:**

- (1) the small claims judge of another township division; or**
- (2) the executive committee of the court;**

**as directed by the presiding judge.**

**(b) A:**

**(1) small claims judge with whom the docket of another small claims judge is deposited during a vacancy or an absence; and**

**(2) successor of any small claims judge who has the dockets of the successor's predecessor in the successor's possession; may perform all duties that the small claims judge might do legally in relation to the small claims judge's own dockets.**

**(c) Process shall be returned to the small claims judge or judge who has the legal custody of the docket at the day of return.**

SECTION 90. IC 33-33-49-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 14. (a) Not more than thirty (30) days after taking the oath of office, the judges shall meet and designate three (3) of the judges as the executive committee for administrative purposes. The executive committee shall be selected by a vote of two-thirds (2/3) of the judges sitting at the time the vote is taken. If all vacancies cannot be filled by a two-thirds (2/3) vote, vacancies may be filled by such other method as provided by court rule. The executive committee is responsible for the operation and conduct of the court. A member of the executive committee shall serve in the capacity provided by rules adopted by the court under section 11 of this chapter. A member of the executive committee serves for a term of two (2) years beginning on the date of the member's election. Any or all of the members elected to the executive committee may be reelected. Of the three (3) judges elected to the executive committee, not more than two (2) may be members of the same political party.**

**(b) One (1) of the three (3) judges elected to the executive committee shall be elected as presiding judge and two (2) of the three (3) judges elected to the executive committee shall be elected as associate presiding judges. Each judge who is a member of the executive committee has an equal vote in all matters pertaining to the business of the court when an action requires a majority vote. Any action taken by the executive committee may be overruled by a vote of two-thirds (2/3) of all the judges sitting at the time the vote is taken. The physical reassignment of a judge to a different courtroom requires a unanimous vote of the executive committee. The executive committee shall assign cases, offices, and courtrooms for trial judges or reassignment of newly filed cases in the interests of the speedy, economical, and uniform disposition of cases. All matters of trial dates, continuances, and subpoenas used for trial shall be determined by the trial judge in accordance with rules of the superior court. The**

**executive committee shall perform other duties as determined by rules of the court.**

**(c) The court shall, by rules of the court, divide the work of the court into various divisions, including but not limited to the following:**

- (1) Civil.**
- (2) Criminal.**
- (3) Probate.**
- (4) Juvenile.**
- (5) Small claims.**

**(d) The work of each division shall be allocated by the rules of the court, except to the extent that the work of the small claims division is otherwise provided by law. The judges shall extend aid and assistance to the small claims judges in the conduct of the small claims division of the court.**

**(e) The judges shall be assigned to various divisions or rooms as provided by rules of the court. Whenever possible, an incumbent judge shall be allowed the option of remaining in a particular room or division. Whenever any action of the court is required, the judges of the court shall act in concert, by a vote under section 11 of this chapter. The court shall keep appropriate records of rules, orders, and assignments of the court.**

**(f) The executive committee of the court, assisted by the small claims judges, shall make and adopt uniform rules for conducting the business of the small claims division of the court:**

- (1) according to a simplified procedure; and**
- (2) in the spirit of sections 20.1 and 20.3 of this chapter.**

**(g) The executive committee of the court, assisted by the small claims judges, may establish a regular hourly schedule for the performance of duties by full-time and part-time small claims judges. A small claims judge shall maintain the schedule. If the executive committee of the court does not establish a regular hourly schedule, the small claims judge shall perform the small claims judge's duties at regular, reasonable hours. Regardless of whether a regular hourly schedule has been established under this subsection, a small claims judge shall hold sessions in addition to the small claims judge's regular schedule when the business of the small claims judge's court requires.**

SECTION 91. IC 33-33-49-14.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 14.1. The small claims division of the court is composed of township divisions. The name of each township division shall be the "\_\_\_\_\_ Township of Marion County Small Claims Division".**

SECTION 92. IC 33-33-49-14.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 14.2. (a) The voters of each township having a small claims division of the court shall elect a small claims constable at the general election every four (4) years for a term of office of four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified. The ballot must state the:**

- (1) name of the candidate; and**
- (2) division of the court for which the candidate is to serve.**

**(b) Each township small claims division of the court shall have a constable who:**

- (1) acts as the bailiff;**
- (2) serves the division's personal service of process;**
- (3) has police powers to:**
  - (A) make arrests;**
  - (B) keep the peace; and**
  - (C) carry out the orders of the court;**
- (4) meets the qualifications prescribed by IC 3-8-1-31;**
- (5) is compensated for each process that is delivered to effect personal service when serving as the bailiff;**
- (6) is responsible for:**
  - (A) the preparation and mailing of all registered or certified service and is compensated for each process served by mail; and**
  - (B) all the official acts of the deputies;**
- (7) is compensated solely from the service of process fees collected under IC 33-37-4-6.5; and**
- (8) may require a deputy to give a bond for the proper**

**discharge of the deputy's duties for an amount fixed by the constable.**

**(c) The elected constable may appoint full-time and part-time deputies for assistance in the performance of official duties who:**

- (1) perform all the official duties required to be performed by the constable;**
- (2) possess the same statutory and common law powers and authority as the constable;**
- (3) must take the same oath required of the constable;**
- (4) are compensated solely from the service of process fees collected under IC 33-37-4-6.5; and**
- (5) serve at the pleasure of the constable and may be dismissed at any time with or without cause.**

**(d) If there is an:**

- (1) emergency; or**
- (2) inability of a constable to carry out the constable's duties;**

**the small claims judge may appoint a special constable to carry out the duties of the constable during the emergency or inability.**

SECTION 93. IC 33-33-49-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 15. (a) The executive committee, with the approval of two-thirds (2/3) of the judges, shall determine the number of hearing judges, commissioners, referees, bail commissioners, court reporters, probation officers, and other personnel required to efficiently serve the court. The salaries of the personnel shall be fixed and paid as provided by law.

(b) The administrative officers shall perform the duties prescribed by the executive committee and shall operate under the jurisdiction of the executive committee and serve at the pleasure of the executive committee.

(c) The executive committee shall see that the court at all times is amply provided with supplies and sufficient clerical and other help, including extra reporters or bailiffs, when needed. Each judge shall appoint the judge's court reporters, bailiffs, secretary, commissioners, and clerks. **Personnel of the small claims division of the court shall be appointed under rules of the court.** In addition to the specified duties of this subsection, the executive committee shall exercise any other powers and duties that may be assigned to the executive committee by an order book entry signed by a two-thirds (2/3) majority of the judges. At least once each month, a general term conference of all superior division judges must be held, at which the presiding judge shall preside. A special order book must be kept for the court in which shall be entered all special rules, proceedings, and similar matters. During an absence or a vacation of a judge who is a member of the executive committee, the senior superior court judge shall act for the absent member, if necessary.

SECTION 94. IC 33-33-49-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 17. (a) **Except as provided in subsection (b),** the court shall hold sessions in:

- (1) the city-county building in Indianapolis; and
- (2) other places in Marion County as the court determines.

(b) The city-county council shall:

- (1) provide and maintain in the building and at other places in Marion County as the court may determine suitable and convenient courtrooms for the holding of the court, suitable and convenient jury rooms, and offices for the judges, other court officers and personnel, and other facilities as are necessary; ~~and~~
- (2) provide all necessary furniture and equipment for rooms and offices of the court;
- (3) determine whether each of the township divisions of the small claims division of the court shall be a full-time or part-time division;**
- (4) determine where each of the township divisions of the small claims division of the court shall hold sessions; and**
- (5) in making the determination required by subdivision (4), consider any recommendations of the transitional advisory board established in IC 36-6-1.1.**

SECTION 95. IC 33-33-49-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 19. The court shall maintain a single order book for each division or room of the court that may be signed on behalf of the court by the judge **or small claims judge** of that division or room of the court. The signature of the judge **or small claims judge** authenticates the actions of the court.

SECTION 96. IC 33-33-49-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 20. **Except as otherwise provided in this chapter concerning the small claims division of the court,** all laws of Indiana and rules adopted by the supreme court governing the circuit court in matters of pleadings, practice, the issuing and service of process, the giving of notice, the appointing of judges pro tempore and special judges, changes of venue from the judge and from the county, adjournments by the court and by the clerk in the absence of the judge, and the selection of jurors for the court apply to and govern the court.

SECTION 97. IC 33-33-49-20.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 20.1. **A simplified procedure applies to and governs the small claims division of the court. The simplified procedure shall be established by rule to enable any person, including the state, to:**

- (1) file the necessary papers; and**
- (2) present the person's case in court;**

**either to seek or to defend against a small claim without consulting or being represented by an attorney.**

SECTION 98. IC 33-33-49-20.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 20.2. (a) **Upon the filing of a complaint in the small claims division of the court, service of original process shall be attempted by personal service of the summons and complaint on the defendant, which may include leaving a copy of the service at the last known place of residence of the party if the process server properly describes on the return the residence, noting any of its unique features, and mailing by first class a copy of the service without charge to the party at the same last known place of residence.**

**(b) If service cannot be made in this manner, service of process shall be made in an alternate manner as provided by the Indiana Rules of Civil Procedure.**

**(c) Subsequent service of process, other than that originally served upon filing of the complaint, may be made by registered or certified mail or another manner authorized by the Indiana Rules of Civil Procedure.**

SECTION 99. IC 33-33-49-20.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 20.3. (a) **A trial in the small claims division of the court:**

- (1) must be informal, with the sole objective of dispensing speedy justice between the parties according to the rules of substantive law; and**
- (2) may not be bound by the statutory provisions or rules of practice, procedure, pleadings, or evidence, except the provisions relating to privileged communications and offers of compromise.**

**(b) There may not be a trial by jury in the small claims division of the court.**

**(c) A filing of a civil claim in the small claims division of the court constitutes a waiver of trial by jury by the plaintiff.**

**(d) A defendant in a small claims case waives the right to trial by jury unless the defendant requests a jury trial at least three (3) calendar days before the trial date that appears on the complaint. Upon the filing of a jury trial request, the small claims division of the court shall transfer the claim out of the small claims division to the general jurisdiction of the court. The defendant shall pay all costs necessary for filing the claim in the general jurisdiction of the court as if the cause had been filed initially in the general jurisdiction of the court.**

**(e) A notice of claim filed in the small claims division of the court must include a statement that reflects the provisions of subsection (d).**

SECTION 100. IC 33-33-49-20.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 20.4. (a) **Except for a claim between landlord and tenant, a case within the jurisdiction of a township small claims division may be:**

- (1) venued;**
- (2) commenced; and**
- (3) decided;**

in any township small claims division within the county. However, upon a motion for change of venue filed by the defendant within ten (10) days of service of the summons, the township small claims division in which the motion was filed shall determine in accordance with subsection (b) whether required venue lies with it or with another township small claims division in the county in which the small claims action was filed.

(b) The venue determination to be made under subsection (a) must be made in the following order:

(1) In an action upon a debt or an account, venue is in the township where any defendant has consented to venue in a writing signed by the defendant.

(2) Venue is in the township where a transaction or occurrence giving rise to any part of the claim took place.

(3) Venue is in the township (in a county of the small claims division) where the greater percentage of individual defendants included in the complaint resides or, if there is not a greater percentage, the place where any individual named as a defendant:

(A) resides;

(B) owns real estate; or

(C) rents an apartment or real estate or where the principal office or place of business of any defendant is located.

(4) Venue is in the township where the claim was filed if there is no other township in the county in which the small claims division sits in which required venue lies.

(c) Venue of any claim between landlord and tenant must be in the township where the real estate is located.

(d) If a written motion challenging venue is received by the township small claims division, the township small claims division shall rule whether required venue lies in the township of filing.

SECTION 101. IC 33-33-49-20.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 20.5. (a) If the small claims judgment or order is against the defendant, the defendant shall pay the judgment at any time and upon terms and conditions as the small claims judge orders.

(b) If the small claims judge orders that the judgment be paid in specified installments, the small claims judge may stay the issuance of execution and other supplementary process during the period of compliance with the order.

(c) A stay ordered under subsection (b) may be modified or vacated by the small claims division of the court.

(d) All small claims judgments rendered in civil actions may be recorded in the judgment docket book of the proper township small claims division of the court.

(e) A judgment entered by a small claims judge is a lien on real estate when entered in the circuit court judgment docket in the same manner as a judgment in a court of general jurisdiction becomes a lien on real estate under IC 34-55-9.

(f) The judgments of the small claims division of the court shall be entered and properly indexed in the name of the judgment defendant as judgments of the general jurisdiction of the court are entered and indexed.

SECTION 102. IC 33-33-49-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 22. (a) A party may appeal an order or a judgment of the court in any case where an appeal may be had from a similar order or judgment of the circuit court.

(b) All appeals from judgments of the small claims division of the court shall be taken to the general jurisdiction of the court and tried de novo. The rules of procedure for appeals must be in accordance with the rules established by the court. The appellant shall pay all costs necessary for the filing of the case in the general jurisdiction of the court as if the appeal were a case that had been filed initially in the general jurisdiction of the court.

SECTION 103. IC 33-33-49-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 24. (a) The judge of the Marion circuit court may, with the consent of the court acting through the superior court presiding judge under rules adopted by the court, transfer any action, cause, or proceeding filed and docketed in the circuit court to the court by transferring all original papers and instruments filed in that action, cause, or proceeding

without further transcript to be redocketed and disposed of as if originally filed with the court.

(b) The superior court presiding judge may not consent to a transfer to the small claims division of the court unless:

(1) the small claims division of the court has jurisdiction of the cause concurrent with the circuit court; and

(2) the small claims judge consents to the transfer.

SECTION 104. IC 33-33-49-25.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 25.1. (a) A judge of the court may order a cause filed in the general jurisdiction of the court to be transferred to the small claims division of the court if:

(1) the small claims division of the court has jurisdiction of the cause concurrent with the general jurisdiction of the court; and

(2) the small claims judge consents to the transfer.

(b) The presiding judge may transfer cases from one (1) township small claims division of the court to another as necessary.

SECTION 105. IC 33-33-49-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 26. The judge of the Marion circuit court may sit as a judge or small claims judge of the court, with the court's permission, in all matters pending before the court, without limitation and without any further order, in the same manner as a judge of the court with all the rights and powers of an elected judge or small claims judge of the court.

SECTION 106. IC 33-33-49-26.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 26.1. (a) A judge of the court may sit as a special small claims judge in the small claims division of the court.

(b) Except for mileage and travel expenses, a judge serving as a special small claims judge under this section may not receive compensation in addition to the salary provided under this article.

(c) A small claims judge may sit in place of another small claims judge and perform the other small claims judge's duties:

(1) at the direction of or with the approval of the presiding judge; and

(2) with the consent of the respective judges.

SECTION 107. IC 33-33-49-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 27. Each judge and small claims judge, before entering upon the duties of office, shall take and subscribe the following oath or affirmation:

"I solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of Indiana and that I will faithfully discharge the duties of (judge or small claims judge) of the superior court of Marion County to the best of my ability."

The oath shall be filed with the clerk of the county.

SECTION 108. IC 33-33-49-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 30. (a) A judge remains qualified to hold office as long as the judge:

(1) remains fair and impartial in judicial functions;

(2) maintains a high standard of morality in dealings, public and private;

(3) remains physically and mentally capable of performing all the functions and duties of the office of judge; and

(4) continues to reside in Marion County.

(b) A small claims judge remains qualified to hold office as long as the small claims judge meets the requirements of subsection (a) and:

(1) continues to reside in the township from which the small claims judge was elected; or

(2) was elected as a small claims judge in the township before January 1, 1999.

(b)(c) Complaints against a judge or small claims judge must be forwarded to the commission on judicial qualifications as provided in IC 33-38-13 by any judge or small claims judge of the superior court.

(c)(d) A judge of the court must retire upon becoming seventy-five (75) years of age. If the judge wishes to retire before the judge's term has ended or upon reaching the mandatory retirement age, the judge

shall provide written notice to the presiding judge of the court. The judge shall continue to hold office until a successor has been appointed and qualified.

~~(d)~~ (e) When a vacancy occurs in the court among the:

(1) **judges of the court** by death, removal, retirement, or for any other reason, the governor shall appoint a successor judge who:

(A) serves the balance of the term of the vacating judge; ~~The successor judge must be and~~

(B) is a member of the same political party as the judge who is to be succeeded; **and**

(2) **small claims judges of the court by death, removal, retirement, or any other reason, the vacancy shall be filled under IC 3-13-10.**

SECTION 109. IC 33-33-49-34 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 34. (a) The clerk of the superior court shall furnish the following:

(1) All blanks, forms, and papers required for use in all criminal cases and in all civil actions involving actions by a city or town for violations of municipal penal ordinances.

(2) All books, papers, stationery, furniture, and other equipment and supplies necessary for keeping the records of the proceedings in all rooms **and divisions** of the superior court and for the transaction of all business of the court.

(3) Necessary computerization of court records.

(b) The materials required under this section shall be furnished at the expense of the county.

(c) The presiding judge of the court, by an order entered on the court records signed by the presiding judge, shall determine and prescribe the forms of the following:

(1) All summonses, notices, subpoenas, warrants, affidavits, complaints, writs, and all other papers and anything else required to be used in the cases relating to violations of criminal statutes or municipal ordinances.

(2) All other books, records, papers, and documents to be used by the court and by the officers of the court and the prosecutors.

In the absence of an order under this subsection, those charged with the duty of prosecuting cases involving either criminal offenses or the violation of municipal ordinances may adopt, change, order, and use all necessary forms and instruments as conform substantially to the practice and procedure applicable.

SECTION 110. IC 33-37-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 6. (a) **Except as provided in subsection (b),** court costs fees under this chapter include service of process by certified mail, unless service by the sheriff is requested by the person who institutes the action.

(b) **Court costs fees under this chapter do not include service of process fees collected under IC 33-37-4-6.5.**

SECTION 111. IC 33-37-4-4, AS AMENDED BY P.L.176-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 4. (a) The clerk shall collect a civil costs fee of one hundred dollars (\$100) from a party filing a civil action. This subsection does not apply to the following civil actions:

(1) Proceedings to enforce a statute defining an infraction under IC 34-28-5 (or IC 34-4-32 before its repeal).

(2) Proceedings to enforce an ordinance under IC 34-28-5 (or IC 34-4-32 before its repeal).

(3) Proceedings in juvenile court under IC 31-34 or IC 31-37.

(4) Proceedings in paternity under IC 31-14.

~~(5) Proceedings in small claims court under IC 33-34.~~

~~(6)~~ (5) Proceedings in actions described in section 7 of this chapter.

(b) In addition to the civil costs fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A support and maintenance fee (IC 33-37-5-6).

(3) A document storage fee (IC 33-37-5-20).

(4) An automated record keeping fee (IC 33-37-5-21).

(5) A public defense administration fee (IC 33-37-5-21.2).

(6) A judicial insurance adjustment fee (IC 33-37-5-25).

(7) A judicial salaries fee (IC 33-37-5-26).

(8) A court administration fee (IC 33-37-5-27).

(9) A service fee (IC 33-37-5-28).

SECTION 112. IC 33-37-4-6, AS AMENDED BY P.L.176-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 6. (a) **Except as provided in section 6.5 of this chapter,** for each small claims action, the clerk shall collect the following fees:

(1) From the party filing the action:

(A) a small claims costs fee of thirty-five dollars (\$35); and

(B) a small claims service fee of ten dollars (\$10) for each named defendant.

(2) From any party adding a defendant, a small claims service fee of ten dollars (\$10) for each defendant added in the action. However, a clerk may not collect a small claims costs fee or small claims service fee for a small claims action filed by or on behalf of the attorney general.

(b) In addition to a small claims costs fee and small claims service fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A document storage fee (IC 33-37-5-20).

(3) An automated record keeping fee (IC 33-37-5-21).

(4) A public defense administration fee (IC 33-37-5-21.2).

(5) A judicial insurance adjustment fee (IC 33-37-5-25).

(6) A judicial salaries fee (IC 33-37-5-26).

(7) A court administration fee (IC 33-37-5-27).

SECTION 113. IC 33-37-4-6.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 6.5. (a) **For each small claims action filed under the jurisdiction of IC 33-33-49-9(b), the clerk shall collect from the party filing the action the following fees:**

(1) **A township docket fee of five dollars (\$5) plus forty-five percent (45%) of the infraction or ordinance violation costs fee under IC 33-37-4-2.**

(2) **The bailiff's service of process by registered or certified mail fee of thirteen dollars (\$13) for each service.**

(3) **The cost for the personal service of process by the bailiff or other process server of thirteen dollars (\$13) for each service.**

(4) **Witness fees, if any, in the amount provided by IC 33-37-10-3 to be taxed and charged in the circuit court.**

(5) **A redocketing fee, if any, of five dollars (\$5).**

(6) **A document storage fee under IC 33-37-5-20.**

(7) **An automated record keeping fee under IC 33-37-5-21.**

(8) **A late fee, if any, under IC 33-37-5-22.**

(9) **A public defense administration fee under IC 33-37-5-21.2.**

**The docket fee and the cost for the initial service of process shall be paid at the institution of a case. The cost of service after the initial service shall be assessed and paid after service has been made. The cost of witness fees shall be paid before the witnesses are called.**

**(b) If the amount of the township docket fee computed under subsection (a)(1) is not equal to a whole number, the amount shall be rounded to the next highest whole number.**

SECTION 114. IC 33-37-5-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 22. (a) Except as provided in subsection (e), this section applies to an action if all the following apply:

(1) The defendant is found, in a court that has a local court rule imposing a late payment fee under this section, to have:

(A) committed a crime;

(B) violated a statute defining an infraction;

(C) violated an ordinance of a municipal corporation; or

(D) committed a delinquent act.

(2) The defendant is required to pay:

(A) court costs, including fees;

(B) a fine; or

(C) a civil penalty.

(3) The defendant is not determined by the court imposing the

court costs, fine, or civil penalty to be indigent.

(4) The defendant fails to pay to the clerk the costs, fine, or civil penalty in full before the later of the following:

(A) The end of the business day on which the court enters the conviction or judgment.

(B) The end of the period specified in a payment schedule set for the payment of court costs, fines, and civil penalties under rules adopted for the operation of the court.

(b) A court may adopt a local rule to impose a late payment fee under this section on defendants described in subsection (a).

(c) Subject to subsection (d), the clerk of a court that adopts a local rule imposing a late payment fee under this section shall collect a late payment fee of twenty-five dollars (\$25) from a defendant described in subsection (a).

(d) Notwithstanding IC 33-37-2-2, a court may suspend a late payment fee if the court finds that the defendant has demonstrated good cause for failure to make a timely payment of court costs, a fine, or a civil penalty.

(e) A plaintiff or defendant in ~~an~~ a **small claims** action under ~~IC 33-34~~ **IC 33-33-49** shall pay a late fee of twenty-five dollars (\$25) if the plaintiff or defendant:

(1) is required to pay court fees or costs under ~~IC 33-34-8-1~~; **IC 33-37-4-6.5**;

(2) is not determined by the court imposing the court costs to be indigent; and

(3) fails to pay the costs in full before the later of the following:

(A) The end of the business day on which the court enters the judgment.

(B) The end of the period specified in a payment schedule set for the payment of court costs under rules adopted for the operation of the court.

A court may suspend a late payment fee if the court finds that the plaintiff or defendant has demonstrated good cause for failure to make timely payment of the fee.

SECTION 115. IC 33-37-7-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JANUARY 1, 2007]: **Sec. 4.5. The clerk of a circuit court in a county having a consolidated city shall forward to the controller of the consolidated city one hundred percent (100%) of the fees collected under the following:**

(1) **IC 33-37-4-6.5(a)(1) (township docket fees).**

(2) **IC 33-37-4-6.5(a)(2) (bailiff's service of process fees).**

(3) **IC 33-37-4-6.5(a)(3) (service of process costs).**

(4) **IC 33-37-4-6.5(a)(4) (witness fees).**

(5) **IC 33-37-4-6.5(a)(5) (redocketing fees).**

**The clerk shall forward the fees in accordance with section 12 of this chapter.**

SECTION 116. IC 33-37-5-21.2, AS AMENDED BY P.L.176-2005, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 21.2. (a) This subsection does not apply to the following:**

(1) A criminal proceeding.

(2) A proceeding ~~for to enforce a statute defining an~~ **infraction. violation.**

(3) A proceeding for an ordinance violation.

In each action filed in a court described in IC 33-37-1-1 and in each small claims action in a ~~court described in IC 33-34~~, **division established under IC 33-33-49-14(c)(5)**, the clerk shall collect a public defense administration fee of three dollars (\$3).

(b) In each action in which a person is:

(1) convicted of an offense;

(2) required to pay a pretrial diversion fee;

(3) found to have ~~violated~~ **committed** an infraction; or

(4) found to have violated an ordinance;

the clerk shall collect a public defense administration fee of three dollars (\$3).

SECTION 117. IC 33-37-5-26, AS ADDED BY P.L.176-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 26. (a) This subsection does not apply to the following:**

(1) A criminal proceeding.

(2) A proceeding for an infraction violation.

(3) A proceeding for an ordinance violation.

(4) A small claims action.

In each action filed in a court described in IC 33-37-1-1, the clerk shall collect a judicial salaries fee equal to the amount specified in the schedule in subsection (d).

(b) In each small claims action filed in a court described in IC 33-37-1-1 or ~~IC 33-34~~, **in a division established under IC 33-33-49-14(c)(5)** the clerk shall collect a judicial salaries fee specified in the schedule in subsection (e).

(c) In each action in which a person is:

(1) convicted of an offense;

(2) required to pay a pretrial diversion fee;

(3) found to have violated an infraction; or

(4) found to have violated an ordinance;

the clerk shall collect a judicial salaries fee specified in the schedule in subsection (d).

(d) Beginning:

(1) after June 30, 2005, and ending before July 1 of the first state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is fifteen dollars (\$15);

(2) after June 30 immediately preceding the first state fiscal year in which salaries are increased under IC 33-38-5-8.1 and ending before July 1 of the second state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is sixteen dollars (\$16);

(3) after June 30 immediately preceding the second state fiscal year in which salaries are increased under IC 33-38-5-8.1 and ending before July 1 of the third state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is seventeen dollars (\$17);

(4) after June 30 immediately preceding the third state fiscal year in which salaries are increased under IC 33-38-5-8.1 and ending before July 1 of the fourth state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is eighteen dollars (\$18);

(5) after June 30 immediately preceding the fourth state fiscal year in which salaries are increased under IC 33-38-5-8.1 and ending before July 1 of the fifth state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is nineteen dollars (\$19); and

(6) after June 30 immediately preceding the fifth state fiscal year in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is twenty dollars (\$20).

(e) Beginning:

(1) after June 30, 2005, and ending before July 1 of the first state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is ten dollars (\$10);

(2) after June 30 immediately preceding the first state fiscal year in which salaries are increased under IC 33-38-5-8.1 and ending before July 1 of the second state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is eleven dollars (\$11);

(3) after June 30 immediately preceding the second state fiscal year in which salaries are increased under IC 33-38-5-8.1 and ending before July 1 of the third state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is twelve dollars (\$12);

(4) after June 30 immediately preceding the third state fiscal year in which salaries are increased under IC 33-38-5-8.1 and ending before July 1 of the fourth state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is thirteen dollars (\$13);

(5) after June 30 immediately preceding the fourth state fiscal year in which salaries are increased under IC 33-38-5-8.1 and

ending before July 1 of the fifth state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is fourteen dollars (\$14); and

(6) after June 30 immediately preceding the fifth state fiscal year in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is fifteen dollars (\$15).

SECTION 118. IC 33-37-5-27, AS ADDED BY P.L.176-2005, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 27. (a) This subsection does not apply to the following:

- (1) A criminal proceeding.
- (2) A proceeding to enforce a statute defining an infraction.
- (3) A proceeding for an ordinance violation.

In each action filed in a court described in IC 33-37-1-1 and in each small claims action in a court described in ~~IC 33-34~~, **division established under IC 33-33-49-14(c)(5)**, the clerk shall collect a court administration fee of two dollars (\$2).

(b) In each action in which a person is:

- (1) convicted of an offense;
- (2) required to pay a pretrial diversion fee;
- (3) found to have committed an infraction; or
- (4) found to have violated an ordinance;

the clerk shall collect a court administration fee of two dollars (\$2).

SECTION 119. IC 33-38-5-6, AS AMENDED BY P.L.159-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 6. (a) The annual salary of each full-time judge of a circuit, superior, municipal, county, or probate court is one hundred ten thousand five hundred dollars (\$110,500), as adjusted after June 30, 2006, under section 8.1 of this chapter, paid by the state. In addition, a judge under this section may receive any additional salary provided by the county under IC 36-2-5-14 or IC 36-3-6-3(c). The state shall deposit quarterly the money received from the counties under subsection (c) for additional salary in the state general fund.

(b) Before November 2 of each year, the county auditor of each county shall certify to the division of state court administration the amounts, if any, to be provided by the county during the ensuing calendar year for judges' salaries under IC 36-2-5-14 or IC 36-3-6-3(c).

(c) When making each payment under subsection (a), the county shall determine for each judge whether the total of:

- (1) the payment made on behalf of that judge;
- (2) previous payments made on behalf of that judge in the same calendar year; and
- (3) the state share of the judge's salary under subsection (a);

exceeds the Social Security wage base established by the federal government for that year. If the total does not exceed the Social Security wage base, the payment on behalf of that judge must also be accompanied by an amount equal to the employer's share of Social Security taxes and Medicare taxes. If the total exceeds the Social Security wage base, the part of the payment on behalf of the judge that is below the Social Security wage base must be accompanied by an amount equal to the employer's share of Social Security taxes and Medicare taxes, and the part of the payment on behalf of the judge that exceeds the Social Security wage base must be accompanied by an amount equal to the employer's share of Medicare taxes. Payments made under this subsection shall be deposited in the state general fund under subsection (a).

(d) For purposes of determining the amount of life insurance premiums to be paid by a judge who participates in a life insurance program that:

- (1) is established by the state;
- (2) applies to a judge who is covered by this section; and
- (3) bases the amount of premiums to be paid by the judge on the amount of the judge's salary;

the judge's salary does not include any amounts paid to the state by a county under subsection (a).

**(e) This section does not apply to a small claims judge (as defined in IC 33-33-49-5.2).**

SECTION 120. IC 33-38-5-6.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS

[EFFECTIVE JANUARY 1, 2007]: **Sec. 6.1. (a) This section applies to a small claims judge (as defined in IC 33-33-49-5.2).**

**(b) The salary of a small claims judge who serves full time must be in an amount determined by the auditor of the county and approved by the city-county council.**

**(c) The salary of each small claims judge who serves part time must be in an amount determined by the auditor of the county and approved by the city-county council.**

**(d) The salary of a small claims judge may not be reduced during the small claims judge's term of office. At any other time, the salary of any full-time or part-time small claims judge may be increased or decreased by the auditor with the approval of the city-county council.**

**(e) The annual salary of a small claims judge shall be paid in twelve (12) equal monthly installments by the county.**

**(f) A small claims judge may not receive remuneration other than a salary set under this section for the performance of the small claims judge's official duties except payments for performing marriage ceremonies.**

SECTION 121. IC 33-38-6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 7. (a) As used in this chapter, "judge" means a person who serves or has served as a regular judge or justice of one (1) or more of the following courts:

- (1) Supreme court.
- (2) Court of appeals.
- (3) Indiana tax court.
- (4) Circuit court of a judicial circuit.
- (5) Superior court of a county.
- (6) Criminal court of a county having a separate criminal court.
- (7) Probate court of a county having a separate probate court.
- (8) Juvenile court of a county having a separate juvenile court.
- (9) Municipal court of a county.
- (10) County court of a county.

**(b) The term does not include a small claims judge (as defined in IC 33-33-49-5.2).**

SECTION 122. IC 33-38-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. As used in this chapter, "judge" means an individual who holds or formerly held one (1) of the following offices or appointments:

- (1) Justice of the supreme court.
- (2) Judge of the court of appeals.
- (3) Judge of the tax court.
- (4) Judge of a circuit court.
- (5) Judge of a superior court.
- (6) Judge of a probate court.
- (7) Judge of a municipal court.
- (8) Judge of a county court.
- (9) Judge of a city court.
- (10) Judge of a town court.
- (11) **Small claims judge. of a small claims court.**
- (12) A judge pro tempore, senior judge, temporary judge, or any other individual serving as judge in an action or a proceeding in an Indiana court.
- (13) Bail commissioner.
- (14) Magistrate.
- (15) Master commissioner.
- (16) Probate commissioner.
- (17) Referee.

SECTION 123. IC 33-38-14-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 4. As used in this chapter, "judge" means a:

- (1) judge of a superior or probate court; **and**
- (2) **small claims judge (as defined in IC 33-33-49-5.2).**

SECTION 124. IC 33-41-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 7. (a) This section applies to the small claims ~~court~~ **division established under ~~IC 33-34~~ IC 33-33-49-14(c)(5).**

(b) The person who is designated by a **small claims judge** of the court to prepare transcripts may collect a fee of not more than five dollars (\$5) for each transcript from a person who requests the preparation of a transcript.

SECTION 125. IC 34-30-2-58 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 58. IC 15-3-4-2

(Concerning township trustees, a consolidated city, or persons hired by them for the removal of detrimental plants upon another person's real property)."

Page 2, between lines 21 and 22, begin a new paragraph and insert:  
"SECTION 129. IC 36-1-2-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 22. (a) "Township", refers to **except as provided in subsection (b), means:**

(1) a civil township, unless the reference is to a congressional township or school township; or

(2) **except as provided in IC 36-6-1.1, IC 36-6-4.1, and IC 36-6-6.1, a township district for a county having a consolidated city, unless the reference is to a congressional township or school township or the context requires otherwise.**

(b) **"Township" means only a civil township for purposes of the following:**

(1) IC 36-7-4.

(2) IC 36-9-27."

Page 20, between lines 26 and 27, begin a new paragraph and insert:

"SECTION 131. IC 36-2-15-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 5. (a) The county assessor shall perform the functions assigned by statute to the county assessor, including the following:

(1) Countywide equalization.

(2) Selection and maintenance of a countywide computer system.

(3) Certification of gross assessments to the county auditor.

(4) Discovery of omitted property.

(b) The county assessor shall perform the functions of an assessing official under IC 36-6-5-2 in a township with a township assessor-trustee if the township assessor-trustee:

(1) fails to make a report that is required by law;

(2) fails to deliver a property tax record to the appropriate officer or board;

(3) fails to deliver an assessment to the county assessor; or

(4) fails to perform any other assessing duty as required by statute or rule of the department of local government finance;

within the time period prescribed by statute or rule of the department or within a later time that is necessitated by reason of another official failing to perform the official's functions in a timely manner.

(c) A township with a township trustee-assessor may, with the consent of the township board, enter into an agreement with:

(1) the county assessor; or

(2) another township assessor in the county;

to perform any of the functions of an assessing official. A township trustee-assessor may not contract for the performance of any function for a period of time that extends beyond the completion of the township trustee-assessor's term of office.

(d) **In a county having a consolidated city:**

(1) **the county assessor shall perform the functions of an assessing official and other duties of an assessing official prescribed by statute in each township in the county, including assessment duties prescribed by IC 6-1.1; and**

(2) **the controller of the consolidated city or the controller's designee shall administer the dog tax and township dog fund as prescribed by IC 15-5-9.**

SECTION 132. IC 36-3-1-6.1, AS ADDED BY P.L.227-2005, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 6.1. (a) **This section applies only in a county containing a consolidated city. If the requirements of subsection (g) are satisfied, Except as provided in section 6.3 of this chapter, after December 31, 2006, the fire departments of the following are consolidated into the fire department of a consolidated city (referred to as "the consolidated fire department"):**

(1) A township for which the consolidation is approved by the township legislative body and trustee and the legislative body and mayor of the located in a county having a consolidated city.

(2) Any fire protection territory established under IC 36-8-19 that is located in a township described in subdivision (1): **county having a consolidated city.**

(3) **The territory in which an airport authority established**

**for a consolidated city under IC 8-22-3 may provide fire protection services.**

(b) **If the requirements of subsection (g) are satisfied, Except as provided in section 6.3 of this chapter, after December 31, 2006, the consolidated fire department shall provide fire protection services within an entity described in subsection (a)(1) or (a)(2) in which the requirements of subsection (g) are satisfied on the date agreed to in the resolution of the township legislative body and the ordinance of the legislative body of the consolidated city: for the entire county.**

(c) **If the requirements of subsection (g) are satisfied and the fire department of an entity listed in subsection (a) is consolidated into the fire department of the consolidated city, All of the property, equipment, records, rights, and contracts of the department consolidated into the fire department of the consolidated city departments and territories listed in subsection (a) are:**

(1) transferred to; or

(2) assumed by;

the consolidated city. ~~on the effective date of the consolidation. However, real property other than real property used as a fire station may be transferred only on terms mutually agreed to by the legislative body and mayor of the consolidated city and the trustee and legislative body of the township in which that real property is located.~~

(d) **If the requirements of subsection (g) are satisfied and the fire department of an entity listed in subsection (a) is consolidated into the fire department of the consolidated city, The employees of the fire department consolidated into the fire department of the consolidated city departments and territories listed in subsection (a) cease employment with the department of the entity departments and territories listed in subsection (a) and become employees of the consolidated fire department on the effective date of the consolidation: after December 31, 2006. The consolidated city shall assume all agreements with labor organizations that:**

(1) are in effect ~~on the effective date of the consolidation, on December 31, 2006, and that expire on or after January 1, 2007; and~~

(2) apply to employees of the ~~department consolidated into the fire department of the consolidated city departments and territories listed in subsection (a) who become employees of the consolidated fire department.~~

(e) **If the requirements of Except as provided in subsection (g) are satisfied and the fire department of an entity listed in subsection (a) is consolidated into the fire department of a consolidated city, (h), the consolidated city shall assume, defuse, pay, or refund all the indebtedness related to fire protection services incurred before the effective date of the consolidation January 1, 2007, by:**

(1) **the entity departments and territories listed in subsection (a); or**

(2) a building, holding, or leasing corporation on behalf of the entity whose fire department is consolidated into the consolidated fire department under subsection (a) shall remain the debt of the entity and does not become and may not be assumed by the consolidated city. Indebtedness related to fire protection services that is incurred by the consolidated city before the effective date of the consolidation shall remain the debt of the consolidated city and property taxes levied to pay the debt may only be levied by the fire special service district: **a department or territory listed in subsection (a).**

(f) **If the requirements of subsection (g) are satisfied and the fire department of an entity listed in subsection (a) is consolidated into the fire department of a consolidated After December 31, 2006, the merit board and the merit system of the each fire department that is consolidated are listed in subsection (a) are dissolved, on the effective date of the consolidation, and the duties of the merit boards are transferred to and assumed by the merit board for the consolidated fire department. on the effective date of the consolidation:**

(g) **A township legislative body, after approval by the township trustee, may adopt a resolution approving the consolidation of the township's fire department with the fire department of the consolidated city. A township legislative body may adopt a resolution under this subsection only after the township legislative body has held a public hearing concerning the proposed consolidation. The township legislative body shall hold the hearing not earlier than thirty (30) days after the date the resolution is introduced. The hearing shall**

be conducted in accordance with IC 5-14-1.5 and notice of the hearing shall be published in accordance with IC 5-3-1. If the township legislative body has adopted a resolution under this subsection, the township legislative body shall, after approval from the township trustee, forward the resolution to the legislative body of the consolidated city. If such a resolution is forwarded to the legislative body of the consolidated city, the legislative body of the consolidated city may adopt an ordinance, approved by the mayor of the consolidated city, approving the consolidation of the fire department of the township into the fire department of the consolidated city and the requirements of this subsection are satisfied. The consolidation shall take effect on the date agreed to by the township legislative body in its resolution and by the legislative body of the consolidated city in its ordinance approving the consolidation.

(h) The following apply if the requirements of subsection (g) are satisfied:

(1) The consolidation of the fire department of that township is effective on the date agreed to by the township legislative body in the resolution and by the legislative body of the consolidated city in its ordinance approving the consolidation.

(2) Notwithstanding any other provision, a firefighter:

(A) who is a member of the 1977 fund before the effective date of a consolidation under this section; and

(B) who, after the consolidation, becomes an employee of the fire department of a consolidated city under this section; remains a member of the 1977 fund without being required to meet the requirements under IC 36-8-8-19 and IC 36-8-8-21. The firefighter shall receive credit for any service as a member of the 1977 fund before the consolidation to determine the firefighter's eligibility for benefits under IC 36-8-8.

(g) Notwithstanding any other law, to assume, defense, pay, or refund all or a part of the indebtedness described in subsection (e) the consolidated city is not required to comply with any other statutory procedures or approvals that apply when a unit incurs indebtedness.

(h) Notwithstanding subsections (e) and (g), the consolidated city may not assume all or a part of the indebtedness described in subsection (e) that will exceed the limitations on the amount of indebtedness that the consolidated city may incur.

(i) The rights of the trustee and the bondholders with respect to any:

(1) bonds or other indebtedness described in subsection (e); or

(2) bond resolution, trust agreement or indenture, security agreement, purchase agreement, or other undertaking with respect to indebtedness described in subsection (e);

remain the same, although the powers, duties, agreements, and liabilities of the departments listed in subsection (a) have been transferred to the consolidated city, and the consolidated city shall be considered to have assumed all those powers, duties, agreements, and liabilities.

(j) To provide for the payment of the expenses for the operation of the consolidated fire department, the consolidated city may levy property taxes on taxable property located within the area served by the consolidated fire department.

(k) The fire special service district established under IC 36-3-1-6 may levy property taxes to provide for the payment of expenses for the operation of the consolidated fire department:

(1) within; or

(2) that directly benefit;

the territory of the fire special service district. These amounts are in addition to the amounts levied by the fire special service district to fund pension obligations under IC 36-8-7-14.

(3) (l) Notwithstanding any other provision, a firefighter:

(A) (1) who is a member of the 1937 fund before the effective date of a consolidation under this section; **January 1, 2007**; and

(B) (2) who, after the consolidation of fire departments under subsection (a), becomes an employee of the consolidated fire department of a consolidated city under this section;

remains a member of the 1937 fund. The firefighter shall receive credit for any service as a member of the 1937 fund before the consolidation to determine the firefighter's eligibility for benefits

under IC 36-8-7.

(4) For property taxes first due and payable in the year in which the consolidation is effective, the maximum permissible ad valorem property tax levy under IC 6-1.1-18.5:

(A) is increased for the consolidated city by an amount equal to the maximum permissible ad valorem property tax levy in the year preceding the year in which the consolidation is effective for fire protection and related services by the township whose fire department is consolidated into the fire department of the consolidated city under this section; and

(B) is reduced for the township whose fire department is consolidated into the fire department of the consolidated city under this section by the amount equal to the maximum permissible ad valorem property tax levy in the year preceding the year in which the consolidation is effective for fire protection and related services for the township.

(5) The amount levied in the year preceding the year in which the consolidation is effective by the township whose fire department is consolidated into the fire department of the consolidated city for the township's cumulative building and equipment fund for fire protection and related services is transferred on the effective date of the consolidation to the consolidated city's cumulative building and equipment fund for fire protection and related services, which is hereby established. The consolidated city is exempted from the requirements of IC 36-8-14 and IC 6-1.1-41 regarding establishment of the cumulative building and equipment fund for fire protection and related services.

(6) (m) The local boards for the 1937 firefighters' pension fund and the 1977 police officers' and firefighters' pension and disability fund of the for a township located in a county having a consolidated city are dissolved, and their services are terminated not later than the effective date of the consolidation. The duties performed by the local boards under IC 36-8-7 and IC 36-8-8, respectively, are assumed by the consolidated city's local board for the 1937 firefighters' pension fund and local board for the 1977 police officers' and firefighters' pension and disability fund, respectively. Notwithstanding any other provision, the legislative body of the consolidated city may adopt an ordinance to adjust the membership of the consolidated city's local board to reflect the consolidation.

(7) The consolidated city may levy property taxes within the consolidated city's maximum permissible ad valorem property tax levy limit to provide for the payment of the expenses for the operation of the consolidated fire department. However, property taxes to fund the pension obligation under IC 36-8-7 for members of the 1937 firefighters fund who were employees of the consolidated city at the time of the consolidation may be levied only by the fire special service district within the fire special service district. The fire special service district established under IC 36-3-1-6 may levy property taxes to provide for the payment of expenses for the operation of the consolidated fire department within the territory of the police special service district. Property taxes to fund the pension obligation under IC 36-8-8 for members of the 1977 police officers' and firefighters pension and disability fund who were members of the fire department of the consolidated city on the effective date of the consolidation may be levied only by the fire special service district within the fire special service district. Property taxes to fund the pension obligation for members of the 1937 firefighters fund who were not members of the fire department of the consolidated city on the effective date of the consolidation and members of the 1977 police officers' and firefighters pension and disability fund who were not members of the fire department of the consolidated city on the effective date of the consolidation may be levied by the consolidated city within the city's maximum permissible ad valorem property tax levy. However, these taxes may be levied only within the fire special service district and any townships that have consolidated fire departments under this section.

(8) The executive of the consolidated city shall provide for an independent evaluation and performance audit, due before March 1 of the year in which the consolidation is effective and for the following two (2) years; to determine:

(A) the amount of any cost savings, operational efficiencies, or improved service levels; and  
 (B) any tax shifts among taxpayers;  
 that result from the consolidation. The independent evaluation and performance audit must be provided to the legislative council in an electronic format under IC 5-14-6 and to the state budget committee.

(n) For any township that consolidated its fire department with the fire department of the consolidated city before January 1, 2007:

- (1) IC 6-3.5-6-18.5 applies to that consolidation; and
- (2) this section applies to that consolidation to the extent that it does not conflict with any consolidation agreement between the township and the consolidated city.

SECTION 133. IC 36-3-1-6.2, AS ADDED BY P.L.227-2005, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6.2. (a) If a consolidated fire department is established under section 6-1 of this chapter, After December 31, 2006, the consolidated city, through the consolidated fire department, shall after the consolidation establish, operate, and maintain emergency ambulance services (as defined in IC 16-18-2-107) in the fire special service district and in those townships in the county that are consolidated under section 6-1 of this chapter.

(b) This section does not prohibit the providing of emergency ambulance services under an interlocal agreement under IC 36-1-7.

SECTION 134. IC 36-3-1-6.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6.3. (a) The consolidated fire department may not provide fire protection services for:

- (1) an excluded city; or
- (2) a fire protection territory for which an excluded city is a provider unit (as defined in IC 36-8-19-3);

unless the fire protection services are provided under an interlocal agreement under IC 36-1-7 or the conditions in subsection (b) are met.

(b) For the consolidated fire department to provide fire protection services to an excluded city other than under an interlocal agreement under IC 36-1-7, all the following must occur:

- (1) The legislative body of the excluded city and the city-county legislative body must adopt substantially similar ordinances authorizing the consolidation of the fire department of the excluded city into the consolidated fire department.
- (2) The ordinances described in subdivision (1) must:
  - (A) specify the effective date of the consolidation; and
  - (B) set forth the conditions of the consolidation.

(c) After the effective date of the consolidation described in subsection (b), the consolidated fire department shall provide fire protection services within the territory of the excluded city.

(d) After the effective date of the consolidation described in subsection (b), all the property, equipment, records, rights, and contracts of the fire department of the excluded city are transferred to and assumed by the consolidated city.

(e) After the effective date of the consolidation described in subsection (b), the employees of the fire department of the excluded city cease employment with the excluded city and become employees of the consolidated fire department. These employees are not hired or rehired for purposes of IC 36-8-3.2 or IC 36-8-10.5 upon becoming employees of the consolidated fire department. The consolidated city shall assume all agreements with labor organizations that:

- (1) are in effect after the effective date of the consolidation described in subsection (b); and
- (2) apply to employees of the fire department of the excluded city who become employees of the consolidated fire department.

(f) Except as provided in subsection (h), the consolidated city shall assume, defease, pay, or refund all indebtedness related to fire protection services incurred before the effective date of the consolidation described in subsection (b) by:

- (1) an excluded city; or

- (2) a building, holding, or leasing corporation on behalf of an excluded city;

whose fire department is consolidated into the consolidated fire department under subsection (b).

(g) Notwithstanding any other law, to assume, defease, pay, or refund all or a part of the indebtedness described in subsection (f) the consolidated city is not required to comply with any other statutory procedures or approvals that apply when a unit incurs indebtedness.

(h) Notwithstanding subsections (f) and (g), the consolidated city may not assume all or a part of the indebtedness described in subsection (f) that will exceed the limitations on the amount of indebtedness that the consolidated city may incur.

(i) The rights of the trustee and the bondholders with respect to any:

- (1) indebtedness or bonds; or
- (2) bond resolution, trust agreement or indenture, security agreement, purchase agreement, or other undertaking agreed in subsection (f);

remain the same, although the powers, duties, agreements, and liabilities of the departments listed in subsection (a) have been transferred to the consolidated city, and the consolidated city shall be considered to have assumed all those powers, duties, agreements, and liabilities.

(j) Whenever an excluded city consolidates its fire department into the consolidated fire department under subsection (b), the local boards for the 1937 firefighters' pension fund and the 1977 police officers' and firefighters' pension and disability fund of the excluded city are dissolved, and their services are terminated not later than the effective date of the consolidation. The duties performed by the local boards under IC 36-8-7 and IC 36-8-8, respectively, are assumed by the consolidated city's local board for the 1937 firefighters' pension fund and local board for the 1977 police officers' and firefighters' pension and disability fund, respectively.

(k) Whenever an excluded city consolidates its fire department into the consolidated fire department under subsection (b), the merit board and merit system of the excluded city's fire department are dissolved, and the duties of the excluded city's merit board are transferred to and assumed by the merit board for the consolidated fire department.

(l) Whenever an excluded city consolidates its fire department into the consolidated fire department under subsection (b), for property taxes first due and payable in the calendar year following the effective date of the consolidation, the maximum permissible ad valorem property tax levy under IC 6-1.1-18.5:

- (1) is increased for a consolidated city by the amount levied in the prior calendar year for fire protection and related services by the excluded city; and
- (2) is reduced for the excluded city by the amount levied in the prior calendar year for fire protection and related services by the excluded city.

(m) Whenever an excluded city consolidates its fire department into the consolidated fire department under subsection (b), for property taxes first due and payable in the calendar year following the effective date of the consolidation, the amount levied under IC 6-1.1-41 and IC 36-8-14 in the prior calendar year by the excluded city for its cumulative building and equipment fund for firefighting and related services is transferred to the consolidated city's cumulative building and equipment fund for firefighting and related services, and the consolidated city is exempted from the requirements of IC 6-1.1-41 and IC 36-8-14 regarding an increase to the levy for its cumulative building and equipment fund for firefighting and related services.

(n) Whenever an excluded city consolidates its fire department into the consolidated fire department under subsection (b), commencing with the calendar year following consolidation and for each year thereafter, the excluded city's monthly distributive share of county option income tax revenues distributed under IC 6-3.5-6-18.5 shall be reduced by a percentage set forth in the ordinances adopted under subsection (b), and those revenues shall instead be distributed as additional distributive shares to Indianapolis/Marion County.

SECTION 135. IC 36-3-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 10. (a) The general assembly finds the following:

(1) That the tax base of the consolidated city and the county have been significantly eroded through the ownership of tangible property by separate municipal corporations and other public entities that operate as private enterprises yet are exempt or whose property is exempt from property taxation.

(2) That to restore this tax base and provide a proper allocation of the cost of providing governmental services the legislative body of the consolidated city and county should be authorized to collect payments in lieu of taxes from these public entities.

(3) That the appropriate maximum payments in lieu of taxes would be the amount of the property taxes that would be paid if the tangible property were not subject to an exemption.

(b) As used in this section, the following terms have the meanings set forth in IC 6-1.1-1:

- (1) Assessed value.
- (2) Exemption.
- (3) Owner.
- (4) Person.
- (5) Personal property.
- (6) Property taxation.
- (7) Tangible property.
- ~~(8) Township assessor.~~

(c) As used in this section, "PILOTS" means payments in lieu of taxes.

(d) As used in this section, "public entity" means any of the following government entities in the county:

- (1) An airport authority operating under IC 8-22-3.
- (2) A capital improvement board of managers under IC 36-10-9.
- (3) A building authority operating under IC 36-9-13.
- (4) A wastewater treatment facility.

(e) The legislative body of the consolidated city may adopt an ordinance to require a public entity to pay PILOTS at times set forth in the ordinance with respect to:

- (1) tangible property of which the public entity is the owner or the lessee and that is subject to an exemption;
- (2) tangible property of which the owner is a person other than a public entity and that is subject to an exemption under IC 8-22-3; or
- (3) both.

The ordinance remains in full force and effect until repealed or modified by the legislative body.

(f) The PILOTS must be calculated so that the PILOTS may be in any amount that does not exceed the amount of property taxes that would have been levied by the legislative body for the consolidated city and county upon the tangible property described in subsection (e) if the property were not subject to an exemption from property taxation.

(g) PILOTS shall be imposed as are property taxes and shall be based on the assessed value of the tangible property described in subsection (e). The ~~township assessors~~ **county assessor** shall assess the tangible property described in subsection (e) as though the property were not subject to an exemption. The public entity shall report the value of personal property in a manner consistent with IC 6-1.1-3.

(h) Notwithstanding any law to the contrary, a public entity is authorized to pay PILOTS imposed under this section from any legally available source of revenues. The public entity may consider these payments to be operating expenses for all purposes.

(i) PILOTS shall be deposited in the consolidated county fund and used for any purpose for which the consolidated county fund may be used.

(j) PILOTS shall be due as set forth in the ordinance and bear interest, if unpaid, as in the case of other taxes on property. PILOTS shall be treated in the same manner as taxes for purposes of all procedural and substantive provisions of law.

(k) PILOTS imposed on a wastewater treatment facility may be paid only from the cash earnings of the facility remaining after provisions have been made to pay for current obligations, including:

- (1) operating and maintenance expenses;
- (2) payment of principal and interest on any bonded

indebtedness;

(3) depreciation or replacement fund expenses;

(4) bond and interest sinking fund expenses; and

(5) any other priority fund requirements required by law or by any bond ordinance, resolution, indenture, contract, or similar instrument binding on the facility.

SECTION 136. IC 36-3-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 11. (a) As used in this section, the following terms have the meanings set forth in IC 6-1.1-1:

- (1) Assessed value.
- (2) Exemption.
- (3) Owner.
- (4) Person.
- (5) Property taxation.
- (6) Real property.
- ~~(7) Township assessor.~~

(b) As used in this section, "PILOTS" means payments in lieu of taxes.

(c) As used in this section, "property owner" means the owner of real property described in IC 6-1.1-10-16.7 that is located in a county with a consolidated city.

(d) Subject to the approval of a property owner, the legislative body of the consolidated city may adopt an ordinance to require the property owner to pay PILOTS at times set forth in the ordinance with respect to real property that is subject to an exemption under IC 6-1.1-10-16.7. The ordinance remains in full force and effect until repealed or modified by the legislative body, subject to the approval of the property owner.

(e) The PILOTS must be calculated so that the PILOTS are in an amount that is:

- (1) agreed upon by the property owner and the legislative body of the consolidated city;
- (2) a percentage of the property taxes that would have been levied by the legislative body for the consolidated city and the county upon the real property described in subsection (d) if the property were not subject to an exemption from property taxation; and
- (3) not more than the amount of property taxes that would have been levied by the legislative body for the consolidated city and county upon the real property described in subsection (d) if the property were not subject to an exemption from property taxation.

(f) PILOTS shall be imposed as are property taxes and shall be based on the assessed value of the real property described in subsection (d). The ~~township assessors~~ **county assessor** shall assess the real property described in subsection (d) as though the property were not subject to an exemption.

(g) PILOTS collected under this section shall be deposited in the housing trust fund established under IC 36-7-15.1-35.5 and used for any purpose for which the housing trust fund may be used.

(h) PILOTS shall be due as set forth in the ordinance and bear interest, if unpaid, as in the case of other taxes on property. PILOTS shall be treated in the same manner as taxes for purposes of all procedural and substantive provisions of law.

SECTION 137. IC 36-3-4-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 14. (a) An ordinance or resolution passed by a legislative body is considered adopted when it is:

- (1) signed by the presiding officer; and
- (2) if subject to veto, either approved by the executive or passed over ~~his~~ **the executive's** veto by the legislative body, under section 16 of this chapter.

(b) All ordinances and resolutions of a legislative body are subject to veto, except the following:

~~(1) An ordinance or resolution; or part of either; providing for the budget or appropriating money for an office or officer of the county provided for by the Constitution of Indiana or for a judicial office or officer.~~

~~(2) (1) An ordinance or resolution approving or modifying the budget of a political subdivision that the legislative body is permitted by statute to review.~~

~~(3) (2) A resolution making an appointment that the legislative~~

body is authorized to make.

~~(4)~~ **(3)** A resolution selecting officers or employees of the legislative body.

~~(5)~~ **(4)** A resolution prescribing rules for the internal management of the legislative body.

~~(6)~~ **(5)** A zoning ordinance or amendment to a zoning ordinance, or a resolution approving a comprehensive plan, that is adopted under IC 36-7.

(c) An ordinance prescribing a penalty or forfeiture for a violation must, before it takes effect, be published in the manner prescribed by IC 5-3-1, unless:

(1) it is published under subsection (d); or

(2) there is an urgent necessity requiring its immediate effectiveness, the executive proclaims the urgent necessity, and copies of the ordinance are posted in three (3) public places in the county.

(d) If a legislative body publishes any of its ordinances in book or pamphlet form, no other publication is required. If an ordinance prescribing a penalty or forfeiture for a violation is published under this subsection, it takes effect two (2) weeks after the publication of the book or pamphlet. Publication under this subsection, if authorized by the legislative body, constitutes presumptive evidence:

(1) of the ordinances in the book or pamphlet;

(2) of the date of adoption of the ordinances; and

(3) that the ordinances have been properly signed, attested, recorded, and approved.

(e) Unless a legislative body provides in an ordinance or resolution for a later effective date, the ordinance or resolution takes effect when it is adopted, subject to subsections (c) and (d).

(f) Subsections (a), (c), (d), and (e) do not apply to zoning ordinances or amendments to zoning ordinances, or resolutions approving comprehensive plans, that are adopted under IC 36-7.

SECTION 138. IC 36-3-6-4, AS AMENDED BY P.L.227-2005, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 4. (a) Before the Wednesday after the first Monday in July each year, the consolidated city and county shall prepare budget estimates for the ensuing budget year under this section.

(b) The following officers shall prepare for their respective departments, offices, agencies, or courts an estimate of the amount of money required for the ensuing budget year, stating in detail each category and item of expenditure they anticipate:

(1) The director of each department of the consolidated city.

(2) Each ~~township assessor~~; elected county officer or head of a county agency.

(3) The county clerk, for each court ~~of which he is the clerk serves~~.

(c) In addition to the estimates required by subsection (b), the county clerk shall prepare an estimate of the amount of money that is, under law, taxable against the county for the expenses of cases tried in other counties on changes of venue.

(d) Each officer listed in subsection (b)(2) or (b)(3) shall append a certificate to each estimate the officer prepares stating that in the officer's opinion the amount fixed in each item will be required for the purpose indicated. The certificate must be verified by the oath of the officer.

(e) An estimate for a court or division of a court is subject to modification and approval by the judge of the court or division.

(f) All of the estimates prepared by city officers and county officers shall be submitted to the controller.

(g) The controller shall also prepare an itemized estimate of city and county expenditures for other purposes above the money proposed to be used by the city departments and county officers and agencies.

SECTION 139. IC 36-3-6-4.1 IS ADDED TO INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 4.1. **Notwithstanding IC 36-8-7, the city-county legislative body shall adopt an ordinance under section 7 of this chapter to levy a tax only within the fire special service district in the amount and at the rate necessary to produce sufficient revenue to pay the amounts required to satisfy the consolidated city's 1937 firefighters' pension fund obligations under IC 36-8-7-14.**

SECTION 140. IC 36-3-7-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 6. **(a) Notwithstanding any other law, the consolidated city may issue obligations to refund obligations issued before January 1, 2007, in the name of:**

**(1) a township;**

**(2) an airport authority;**

**(3) a fire protection territory; or**

**(4) a building, holding, or leasing corporation on behalf of a township, an airport authority, or a fire protection territory;**

**to satisfy the requirements of IC 36-3-1-6.1(e), IC 36-3-1-6.1(f), and IC 36-3-1-6.1(g).**

**(b) Notwithstanding any other law, the consolidated city may issue obligations to refund obligations issued before the effective date of a consolidation described in IC 36-3-1-6.3(b) by:**

**(1) an excluded city; or**

**(2) a building, holding, or leasing corporation on behalf of an excluded city;**

**to satisfy the requirements of IC 36-3-1-6.3(f), IC 36-3-1-6.3(g), and IC 36-3-1-6.3(h).**

SECTION 141. IC 36-6-1.1 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

**Chapter 1.1. Marion County Township Transitional Provisions**

**Sec. 1. This chapter applies only to townships in a county having a consolidated city.**

**Sec. 2. (a) After December 31, 2007, all powers and duties of a township trustee elected at the 2006 general election shall be terminated, except for the trustee's powers and duties regarding township assistance. The trustee shall comply with IC 36-6-4 for the limited purpose of performing the trustee's duties with regard to township assistance.**

**(b) After December 31, 2007, all powers and duties of a township legislative body elected at the 2004 general election shall be terminated, except for the township legislative body's powers and duties regarding township assistance. The township legislative body shall comply with IC 36-6-6 for the limited purpose of performing the township legislative body's duties with regard to township assistance.**

**(c) After December 31, 2008:**

**(1) township trustees are governed by IC 36-6-4.1; and**

**(2) township boards are governed by IC 36-6-6.1.]**

**(d) Beginning with the general election held in 2008:**

**(1) new township trustees for the township districts shall be elected under IC 36-6-4.1; and**

**(2) new township boards for the township districts shall be elected under IC 36-6-6.1.**

**(e) On January 1, 2009:**

**(1) the township boards existing at the time the new township boards are elected under IC 36-6-6.1 are dissolved; and**

**(2) the township boards elected under IC 36-6-6.1 replace the township boards that are dissolved under subdivision (1).**

**Sec. 3. (a) A transitional advisory board shall be formed not later than July 1, 2006, to prepare a report and recommendations to the township trustees and township boards regarding the reorganization of townships, including the following:**

**(1) The transfer of residual township functions to appropriate departments or officers of the consolidated city or county.**

**(2) The provision of township assistance under IC 12-20 and IC 12-30-4.**

**(3) The transfer of township assessment functions from the township assessors to the county assessor.**

**(4) The location of township divisions of the small claims division of the superior court of the county.**

**(b) The transitional advisory board consists of the following twenty-one (21) members:**

**(1) The nine (9) township trustees in the county holding office on the date the transitional advisory board is formed.**

**(2) Four (4) individuals appointed by the city executive. One**

**(1) individual appointed under this subdivision must be an**

assessing professional.

(3) Four (4) individuals appointed by the city-county legislative body.

(4) Four (4) individuals appointed by the board of commissioners of the county.

(c) Members of the transitional advisory board appointed under subsection (b)(2), (b)(3), and (b)(4) are not entitled to receive any salary for their service. Members of the board designated under subsection (b)(1) are not entitled to any additional salary for their service on the board but are entitled to their regular salaries as township trustees under IC 36-6-8 until the end of their current terms. The board may use the staff and budget of the existing trustees to carry out the board's work. Two (2) cochairpersons, each of a different political party, shall be elected by the members of the board.

(d) The transitional advisory board expires not later than February 28, 2008.

Sec. 4. All assets, property rights, equipment, records, personnel, and contracts and all else connected with the provision of township assistance under IC 12-20 and IC 12-30-4 by a township shall be transferred to the applicable township district on January 1, 2009. All other assets, property rights, equipment, records, personnel (except as otherwise provided by statute), and contracts and all else connected with the township shall be transferred to the consolidated city on January 1, 2009. Any indebtedness not connected with the provision of township assistance that was incurred by a township before the effective date of consolidation under this section shall be assumed or defeated by the consolidated city, notwithstanding any other provision of law requiring completion of certain procedures and approvals for the incurrence of indebtedness. However, the indebtedness (or any part of the indebtedness) may not be assumed by the consolidated city if the assumption would cause the consolidated city to exceed any limitation on the amount of indebtedness that may be incurred by the consolidated city.

Sec. 5. Beginning January 1, 2009, notwithstanding any other law to the contrary, for a township located in a county having a consolidated city, the township's distributive share of any state or local taxes or revenues (other than county option income taxes distributed under IC 6-3.5-6-18.5 and property taxes) shall be reduced to zero (0) and shall be transferred to the consolidated city.

SECTION 142. IC 36-6-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1. This chapter applies to all townships except a township in a county having a consolidated city.

SECTION 143. IC 36-6-4-2, AS AMENDED BY P.L.88-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Except as provided in subsection (d), a township trustee shall be elected under IC 3-10-2-13 by the voters of each township. The trustee is the township executive.

(b) The township trustee must reside within the township as provided in Article 6, Section 6 of the Constitution of the State of Indiana. The trustee forfeits office if the trustee ceases to be a resident of the township.

(c) Except as provided in subsection (d), the term of office of a township trustee is four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified.

(d) This subsection applies to a township in a county having a consolidated city. At the 2006 general election, a township trustee shall be elected under IC 3-10-2-13 by the voters of each township. The term of office of a township trustee elected at the 2006 general election is two (2) years, beginning January 1 after election.

SECTION 144. IC 36-6-4-3, AS AMENDED BY P.L.73-2005, SECTION 173, AND AS AMENDED BY P.L.227-2005, SECTION 36, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. The executive shall do the following:

- (1) Keep a written record of official proceedings.
- (2) Manage all township property interests.
- (3) Keep township records open for public inspection.

(4) Attend all meetings of the township legislative body.

(5) Receive and pay out township funds.

(6) Examine and settle all accounts and demands chargeable against the township.

(7) Administer *poor relief township assistance* under IC 12-20 and IC 12-30-4.

(8) Perform the duties of fence viewer under IC 32-26.

(9) Act as township assessor when required by IC 36-6-5.

(10) Provide and maintain cemeteries under IC 23-14.

(11) Provide fire protection under IC 36-8 *except in a township that:*

(A) *is located in a county having a consolidated city; and*

(B) *consolidated the township's fire department under IC 36-3-1-6.1.*

(12) File an annual personnel report under IC 5-11-13.

(13) Provide and maintain township parks and community centers under IC 36-10.

(14) Destroy detrimental plants, noxious weeds, and rank vegetation under IC 15-3-4.

(15) Provide insulin to the poor under IC 12-20-16.

(16) Perform other duties prescribed by statute.

SECTION 145. IC 36-6-4.1 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]:

**Chapter 4.1. Township Executives in Marion County**

Sec. 1. Subject to IC 36-6-1.1, this chapter applies only to a county having a consolidated city.

Sec. 2. As used in this chapter, "central township district" means the geographic area that is coterminous with the territory of the board of school commissioners under IC 20-25-3-1 and IC 20-25-3-2.

Sec. 3. As used in this chapter, "consolidated township district" means the territory of a county having a consolidated city, excluding the central township district.

Sec. 4. As used in this chapter, "executive" refers to the township trustee of a township district elected under section 7 of this chapter.

Sec. 5. As used in this chapter, "township district" means the:

- (1) central township district; and
- (2) consolidated township district.

Sec. 6. As used in this chapter, "township district legislative body" refers to a township board created under IC 36-6-6.1.

Sec. 7. (a) Beginning with the general election held in 2008, a township trustee shall be elected under IC 3-10-2-13 by the voters of each township district. The township trustee elected for each township district is the executive for each township in the township district.

(b) The executive must reside within the township district as provided in Article 6, Section 6 of the Constitution of the State of Indiana. The executive forfeits office if the executive ceases to be a resident of the township district.

(c) The term of office of the executive is four (4) years, beginning January 1 after the executive's election and continuing until a successor is elected and qualified.

Sec. 8. The executive shall do the following:

- (1) Keep a written record of official proceedings.
- (2) Manage all property interests in the township district.
- (3) Keep records of the township district open for public inspection.
- (4) Attend all meetings of the township district legislative body.
- (5) Receive and pay out funds of the township district.
- (6) Examine and settle all accounts and demands chargeable against the township district.
- (7) Provide the assistance required under IC 12-20 and IC 12-30-4.
- (8) File an annual personnel report under IC 5-11-13.

Sec. 9. The executive may do the following:

- (1) Administer oaths when necessary in the discharge of official duties.
- (2) Appoint an attorney to represent the township district in any proceeding in which the township district is interested.
- (3) Enter into certain oil and gas leases of township district

property under IC 36-9.

(4) Personally use a township district vehicle for the performance of official duties, but only if the use is authorized by the township district legislative body.

(5) Exercise other powers granted by statute.

Sec. 10. The executive shall maintain:

(1) a general account showing the total of all township district receipts and expenditures; and

(2) the financial and appropriation record of the township district, which must include an itemized and accurate account of the township district's financial affairs.

Sec. 11. (a) For each sum of money received by the executive, the financial and appropriation record must show:

(1) the date the sum of money was received;

(2) from whom the sum of money was received; and

(3) to what account the sum of money was credited.

(b) For each sum of money paid by the executive, the financial and appropriation record must show:

(1) the date the sum of money was paid;

(2) to whom the sum of money was paid;

(3) from what account the sum of money was paid; and

(4) why the sum of money was paid.

(c) The state board of accounts shall prescribe the form of the financial and appropriation record.

Sec. 12. (a) Each purchase for a township district by the executive must be made on written order of the executive, certifying that sufficient funds have been appropriated to pay the full price of the purchase. The executive shall issue a warrant and pay for the purchase not later than time of receipt of the county treasurer's first semiannual distribution following the purchase.

(b) An executive who violates this section commits a Class C infraction and is liable on the executive's official bond for the value of the purchase.

Sec. 13. (a) The executive may use the township district's share of state, county, and township district tax revenues and federal revenue sharing funds for all categories of community service, if these funds are appropriated for these services by the township district legislative body. The executive may use these funds for both operating and capital expenditures.

(b) With the consent of the township district legislative body, the executive may contract with corporations for health and community services not specifically provided by another governmental entity.

Sec. 14. On the first Monday of each August the executive shall post, in a conspicuous place near the executive's office, a verified statement showing the indebtedness of the township district in detail and giving the number and total amount of outstanding orders, warrants, and accounts.

Sec. 15. (a) At the township district legislative body's annual meeting under IC 36-6-6.1-12, the executive shall:

(1) present an itemized written statement of the estimated expenditures for which appropriations are requested, specifying the:

(A) number of teachers employed;

(B) salary of each teacher employed;

(C) property of the township district (and supplies on hand);

(D) estimated value of the property of the township district (and supplies on hand);

(E) supplies necessary for each school; and

(F) need for township assistance in the township district; and

(2) submit to questions from the township district legislative body or taxpayers concerning expenditures of the township district.

(b) The written statement required under subsection (a)(1) must comply with forms prescribed by the state board of accounts and show the amount of each item to be charged against funds of the township district.

Sec. 16. (a) At the annual meeting of the township district legislative body under IC 36-6-6.1-10, the executive shall present a complete report of all receipts and expenditures of the preceding calendar year, including the balance to the credit of each fund controlled by the executive. If the executive controls

any money that is not included in a particular fund, the executive shall state all the facts concerning that money in the report.

(b) Each item of expenditure in the report presented under subsection (a) must be accompanied by the verified voucher of the person to whom the sum was paid, stating:

(1) why the payment was made;

(2) that the receipt is for the exact sum received;

(3) that no part of the sum has been retained by the executive; and

(4) that no part of the sum has been or is to be returned to the executive or any other person.

The executive may administer oaths to persons giving these receipts.

(c) The executive shall swear or affirm that:

(1) the report presented under subsection (a) shows all sums received by the executive;

(2) the expenditures credited have been fully paid in the sums stated, without express or implied agreement that any part of the sums is to be retained by or returned to the executive or any other person; and

(3) the executive has received no money or other property in consideration of any contract entered into or expenditure made on behalf of the township district.

(d) Within ten (10) days after the township district legislative body's action under IC 36-6-6.1-10, the executive shall file a copy of the report presented under subsection (a) and the report's accompanying vouchers, as adopted by the township district legislative body, in the office of the controller of the consolidated city. The township district legislative body may, for the benefit of the township, bring a civil action against the executive if the executive fails to file the report within ten (10) days after the township district legislative body's action. The township district legislative body may recover five dollars (\$5) for each day after the time limit for filing the report, until the report is filed.

Sec. 17. (a) When the executive prepares the annual report required by section 16 of this chapter, the executive shall also prepare, on forms prescribed by the state board of accounts, an abstract of receipts and expenditures:

(1) showing the sum of money in each fund of the township district at the beginning of the year;

(2) showing the sum of money received in each fund of the township district during the year;

(3) showing the sum of money paid from each fund of the township district during the year;

(4) showing the sum of money remaining in each fund of the township district at the end of the year;

(5) containing a statement of receipts, showing their source; and

(6) containing a statement of expenditures showing the combined gross payment, according to classification of expense, to each person.

(b) Not later than four (4) weeks after the annual meeting of the township district legislative body under IC 36-6-6.1-10, the executive shall publish the abstract required by subsection (a) in accordance with IC 5-3-1. The abstract must state that a complete and detailed annual report and the accompanying vouchers showing the names of persons paid money by the township district have been filed with the controller of the consolidated city, and that the chairperson of the township district legislative body has a copy of the report that is available for inspection by any taxpayer of the township district.

(c) An executive who fails to comply with this section commits a Class C infraction.

Sec. 18. When an executive's term of office expires, the executive shall:

(1) immediately deliver to the new executive custody of all funds and property of the township district, except records necessary in the preparation of the former executive's annual report under section 16 of this chapter;

(2) deliver to the new executive, not later than the second Monday in the next January, the former executive's annual report and any records the former executive has retained; and

(3) attend the annual meeting of the township district

legislative body held under IC 36-6-6.1-10 and submit to inquiries from the township district legislative body concerning the operation of the executive's office during the preceding calendar year.

**Sec. 19. (a)** If an executive resigns or dies, the executive's personal representative shall immediately deliver to the new executive custody of all funds and property of the township district. The new executive shall then issue a call for a special meeting of the township district legislative body, to be held not more than fifteen (15) days later. At the special meeting the township district legislative body shall:

- (1) examine the records of the township district;
- (2) inquire into the conduct of the executive's office; and
- (3) approve in whole or in part the records, receipts, and expenditures of the township district to the date of the death or resignation of the former executive.

**(b)** In the new executive's annual report to the township district legislative body required under section 16 of this chapter, the new executive shall distinguish between the new executive's transactions and those of the former executive. The township district legislative body may, at its annual meeting under IC 36-6-6.1-10, review items in the report that were considered at the special meeting.

**Sec. 20. An executive is entitled to receive the following:**

- (1) The executive's salary.
- (2) Reimbursement for expenses that are reasonably incurred by the executive for the following:
  - (A) The operation of the executive's office.
  - (B) Travel and meals while attending seminars or conferences on township district matters.
  - (C) A sum for mileage as permitted under IC 36-6-8-3(b).

The executive may not make any other personal use of funds of the township district without prior approval by the township district legislative body.

**Sec. 21. (a)** Not later than thirty (30) days after taking office, the executive shall designate a person who shall perform the executive's duties whenever the executive is incapable of performing the executive's functions because the executive:

- (1) is absent from the township district; or
- (2) becomes incapacitated.

The executive shall give notice of the designation to the chairperson of the township district legislative body, the county sheriff, the city controller, and any other persons that the executive chooses. The designee has all the powers of the executive. The executive is responsible for all acts of the designee. The executive may change the designee under this section at any time.

**(b)** The designee shall perform the executive's duties until the executive is no longer absent from the township district or incapacitated.

**Sec. 22. The executive may pay township district funds for the purpose of supporting a drug awareness program that is implemented in schools.**

SECTION 146. IC 36-6-5-1, AS AMENDED BY P.L.240-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. (a) **Except as provided in subsection (e) and section 3 of this chapter**, a township assessor shall be elected under IC 3-10-2-13 by the voters of each township having:

- (1) a population of more than eight thousand (8,000); or
- (2) an elected township assessor or the authority to elect a township assessor before January 1, 1979.

**(b)** A township assessor shall be elected under IC 3-10-2-14 in each township having a population of more than five thousand (5,000) but not more than eight thousand (8,000), if the legislative body of the township:

- (1) by resolution, declares that the office of township assessor is necessary; and
- (2) the resolution is filed with the county election board not later than the first date that a declaration of candidacy may be filed under IC 3-8-2.

**(c)** A township government that is created by merger under IC 36-6-1.5 shall elect only one (1) township assessor under this

section.

**(d)** The township assessor must reside within the township as provided in Article 6, Section 6 of the Constitution of the State of Indiana. The assessor forfeits office if the assessor ceases to be a resident of the township.

**(e)** The term of office of a township assessor is **the following:**

**(1)** This subdivision applies to a township assessor of a township having a consolidated city. The term of a township assessor who is elected in the 2006 general election is two (2) years beginning January 1 after election.

**(2)** This subdivision applies to a township assessor of a township not having a consolidated city. The term of a township assessor is four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified. However, the term of office of a township assessor elected at a general election in which no other township officer is elected ends on December 31 after the next election in which any other township officer is elected.

SECTION 147. IC 36-6-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 2. (a) This section applies to ~~townships~~ **a township, other than a township located in a county having a consolidated city**, that ~~do~~ does not have an elected or appointed and qualified township assessor.

**(b)** The township executive shall perform all the duties and has all the rights and powers of assessor. If a township qualifies under IC 36-6-5-1 to elect a township assessor, the executive shall continue to serve as assessor until an assessor is appointed or elected and qualified.

**(c)** The bond filed by the executive in ~~his~~ **the executive's** capacity as executive also covers ~~his~~ **the executive's** duties as assessor.

SECTION 148. IC 36-6-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. **(a) Except as provided in subsection (b)**, the assessor shall perform the duties prescribed by statute, including:

- (1) assessment duties prescribed by IC 6-1.1; and
- (2) administration of the dog tax and dog fund, as prescribed by IC 15-5-9.

**(b) In a township located in a county having a consolidated city:**

- (1) there is no township assessor beginning January 1, 2008;**
- (2) beginning January 1, 2007, the duties of the township assessor prescribed by IC 6-1.1 are performed by the county assessor under IC 36-2-15-5;**
- (3) beginning January 1, 2007, the duties of the township assessor prescribed by IC 15-5-9 are performed by the controller of the consolidated city or the controller's designee; and**
- (4) beginning January 1, 2007, township assessors shall perform the duties prescribed by ordinance of the legislative body of the consolidated city.**

SECTION 149. IC 36-6-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1. This chapter applies to all townships **except a township in a county having a consolidated city.**

SECTION 150. IC 36-6-6-2, AS AMENDED BY P.L.240-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 2. (a) Except as provided in ~~subsection (b)~~ and section 2.1 of this chapter, a three (3) member township board shall be elected under IC 3-10-2-13 by the voters of each township.

~~(b)~~ **The township board in a county containing a consolidated city shall consist of seven (7) members elected under IC 3-10-2-13 by the voters of each township:**

~~(c)~~ **(b)** The township board is the township legislative body.

~~(d)~~ **(c)** The term of office of a township board member is four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified.

SECTION 151. IC 36-6-6-2.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 2.2. ~~(a)~~ **This subsection applies to townships in a county containing a consolidated city: The voters of each legislative body district established under section 2-5 of this chapter shall elect one (1) member of the township board:**

(b) This subsection applies to townships not included in subsection (a). The voters of each township shall elect all the members of the township board.

SECTION 152. IC 36-6-6-3, AS AMENDED BY P.L.240-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 3. (a) This subsection applies to townships in a county containing a consolidated city. One (1) member of the legislative body must reside within each legislative body district. If a member of the legislative body ceases to be a resident of the district from which the member was elected, the office becomes vacant.

(b) (a) This subsection applies to townships not included in subsection (a) or (c). (b) A member of the legislative body must reside within the township as provided in Article 6, Section 6 of the Constitution of the State of Indiana. If a member of the legislative body ceases to be a resident of the township, the office becomes vacant.

(c) (b) This subsection applies to a township government that:

(1) is created by a merger of township governments under IC 36-6-1.5; and

(2) elects a township board under section 2.1 of this chapter.

One (1) member of the legislative body must reside within the boundaries of each of the former townships that merged. If a member of the legislative body ceases to be a resident of that former township, the office becomes vacant.

SECTION 153. IC 36-6-6-4, AS AMENDED BY P.L.240-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 4. (a) Except as provided in subsections subsection (b), and (c); two (2) members of the legislative body constitute a quorum.

(b) Four (4) members of the legislative body in a county containing a consolidated city constitute a quorum:

(c) (b) This subsection applies to a township government that:

(1) is created by a merger of township governments under IC 36-6-1.5; and

(2) elects a township board under section 2.1 of this chapter.

A majority of the members of the legislative body constitute a quorum. If a township board has an even number of members, the township executive shall serve as an ex officio member of the township board for the purpose of casting the deciding vote to break a tie.

SECTION 154. IC 36-6-6.1 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]:

**Chapter 6.1. Township Legislative Bodies in Marion County**

**Sec. 1. Subject to IC 36-6-1.1, this chapter applies only in a county having a consolidated city.**

**Sec. 2. The definitions in IC 36-6-4.1 apply to this chapter.**

**Sec. 3. (a) The township board shall serve as the township district legislative body.**

**(b) The township board for the:**

**(1) central township district consists of seven (7) at-large members; and**

**(2) consolidated township district consists of nine (9) at-large members.**

**(c) Beginning with the general election held in 2008, all members of the township boards shall be elected under IC 3-10-2-13 by the voters of each township district.**

**(d) The term of office of a township board member is four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified.**

**Sec. 4. A member of the legislative body must reside within the township district. If a member of the legislative body ceases to be a resident of the township district from which the member was elected, the office becomes vacant.**

**Sec. 5. (a) Four (4) members of the legislative body for the central township district constitute a quorum.**

**(b) Five (5) members of the legislative body for the consolidated township district constitute a quorum.**

**Sec. 6. The legislative body may adjourn a meeting from day to day until the business of the legislative body is completed.**

**Sec. 7. A taxpayer of the township district may appear at any meeting of the legislative body and be heard as to:**

**(1) an estimate of expenditures;**

**(2) a proposed levy of taxes;**

**(3) the approval of the executive's annual report; or**

**(4) any other matter being considered by the legislative body.**

**Sec. 8. (a) The legislative body shall meet at the office of the executive on the first Tuesday after the first Monday in January of each year. At this meeting the legislative body shall elect one (1) member as chairperson and one (1) member as secretary for that year.**

**(b) If a newly elected legislative body holds a special meeting before the first Tuesday after the first Monday in the January following its election, the legislative body shall elect a chairperson and a secretary before conducting any other business. The chairperson and secretary elected at the special meeting retain those positions until the first Tuesday after the first Monday in January of the year following the special meeting.**

**Sec. 9. The legislative body shall keep a permanent record of its proceedings in a book furnished by the executive. The secretary of the legislative body shall, under the direction of the legislative body, record the minutes of the proceedings of each meeting in full and shall provide copies of the minutes to each member of the legislative body before the next meeting is convened. After the minutes are approved by the legislative body, the secretary of the legislative body shall place the minutes in the permanent record book. The chairperson of the legislative body shall retain the record in the chairperson's custody.**

**Sec. 10. (a) The legislative body shall meet on or before the third Tuesday after the first Monday in January of each year. At this meeting the legislative body shall consider and approve, in whole or in part, the annual report of the executive presented under IC 36-6-4.1-15.**

**(b) The legislative body may send for persons, books, and papers necessary in the examination of the annual report. A member may administer oaths necessary in the examination of the annual report.**

**(c) Any sum in the control of the executive that remains unexpended and is subject to no liability shall be credited in favor of the fund for which it was appropriated.**

**(d) Any fund expended, in whole or in part, for a purpose for which it was not appropriated shall be considered unexpended and in the control of the executive, who is liable on the executive's bond for such an expenditure.**

**(e) When the legislative body completes its examination of the annual report, the legislative body shall take action on the annual report, specifying the parts of the annual report that are altered or disallowed. The annual report remains under the control of the legislative body and in custody of the chairperson of the legislative body, who shall keep it open to inspection by taxpayers of the township district.**

**Sec. 11. (a) The legislative body shall fix the:**

**(1) salaries;**

**(2) wages;**

**(3) rates of hourly pay; and**

**(4) remuneration other than statutory allowances;**

**of all officers and employees of the township district.**

**(b) Subject to subsection (c), the legislative body may reduce the salary of an elected or appointed official. However, the official is entitled to a salary that is not less than the salary fixed for the first year of the term of office that immediately preceded the current term of office.**

**(c) The legislative body may not alter the salaries of elected or appointed officers during the fiscal year for which they are fixed, but the legislative body may add or eliminate any other position and change the salary of any other employee, if the necessary funds and appropriations are available.**

**(d) If a change in the mileage allowance paid to state officers and employees is established by July 1 of any year, that change shall be included in the compensation fixed for the executive under this section and take effect January 1 of the next year. However, the legislative body may by ordinance provide for the change in the sum per mile to take effect before January 1 of the next year.**

**(e) The legislative body may not reduce the salary of the**

executive without the consent of the executive during the term of office of the executive as set forth in IC 36-6-4.1-7.

(f) This subsection applies when an executive dies or resigns from office. The person filling the vacancy of the executive shall receive at least the same salary the previous executive received for the remainder of the unexpired term of office of the executive (as set forth in IC 36-6-4.1-7), unless the person consents to a reduction in salary.

Sec. 12. (a) The legislative body shall meet annually in accordance with IC 6-1.1-17 to adopt the annual budget of the district.

(b) The legislative body shall consider the estimates of expenditures made by the executive under IC 36-6-4.1-15 and may approve or reject all or part of any estimate or any item within an estimate. The legislative body may require the executive to further itemize an estimate not sufficiently itemized.

(c) The legislative body may not appropriate for any purpose an amount more than the executive's estimate of the amount required for that purpose.

(d) The legislative body shall include in the budget:

(1) provisions for the payment of existing debt of the township district as it becomes due; and

(2) the salaries fixed under section 11 of this chapter.

(e) In making levies for the general fund of the township district, the legislative body may include an amount not more than the amount necessary to compensate its members for their services during the year for which the levies are made.

(f) After the legislative body has taken action on the executive's estimates, it shall levy taxes for the township district funds on property in the township district and fix rates of taxation sufficient to provide that revenue during the next year.

(g) On the assessment date (as defined by IC 6-1.1-1-2), the rates of taxation adopted under this section become a levy and a lien on all taxable property in the township district, including property in municipalities in the township district. The levy constitutes an appropriation for the specific items in the executive's estimates.

Sec. 13. (a) The legislative body may appropriate money for membership of the township district in county, state, or national associations that:

(1) are of a civic, an educational, or a governmental nature; and

(2) have as a purpose the improvement of township or township district governmental operations.

The township district representatives may participate in the activities of these associations, and the legislative body may appropriate money to defray the expenses of township district representatives in connection with these activities.

(b) Each representative of the township district attending any meeting, conference, seminar, or convention approved by the executive shall be reimbursed for all necessary and legitimate expenses incurred while representing the township district. Expenses shall be paid to each representative in accordance with the reimbursement policy of the township district, which may include an established per diem rate, as recommended by the executive and adopted by the legislative body.

Sec. 14. (a) A special meeting may be held by the legislative body if the executive, the chairperson of the legislative body, or a majority of the members of the legislative body issue a written notice of the meeting to each member of the legislative body. The notice must state the date, time, place, and purpose of the meeting.

(b) At the special meeting, if a majority of the members give their consent, the legislative body may determine whether there is an emergency requiring the expenditure of money not included in the budget estimates and levy of the township district. Subject to section 15 of this chapter, if the legislative body finds that such an emergency exists, it may issue a special order, entered and signed on the record, authorizing the executive to borrow a specified amount of money sufficient to meet the emergency. At the legislative body's next annual session, the legislative body shall cover the debt created by making a levy to the credit of the fund for which the amount was borrowed under this subsection.

Sec. 15. (a) If the legislative body issues a special order under

section 14 of this chapter authorizing the executive to borrow money, not less than ten (10) taxpayers in the township district who disagree with the special order may file a petition in the office of the controller of the consolidated city not more than thirty (30) days after notice of the special order is given. The petition must state the taxpayers' objections and the reasons why the taxpayers believe the special order is unnecessary or unwise.

(b) The controller of the consolidated city shall immediately certify a copy of the petition, together with other data necessary to present the questions involved, to the department of local government finance. Upon receipt of the certified petition and other data, the department of local government finance shall fix a date, time, and place for the hearing of the matter. The hearing must be held not less than five (5) and not more than thirty (30) days after the receipt of the certified documents.

(c) The hearing must be held in the township district where the petition arose.

(d) Notice of the hearing shall be given by the department of local government finance to the township district and to the first ten (10) taxpayer petitioners listed on the petition by letter. The letter shall be sent to the first ten (10) taxpayer petitioners at each taxpayer's usual place of residence at least five (5) days before the date of the hearing.

(e) A:

(1) taxpayer who signed a petition filed under subsection (a); or

(2) township district against which a petition under subsection (a) is filed;

may petition for judicial review of the final determination of the department of local government finance under subsection (a). The petition must be filed in the tax court not more than forty-five (45) days after the date of the department's final determination.

Sec. 16. (a) If the legislative body finds that an emergency requires the borrowing of money to meet the current expenses of the township district, the legislative body may take out temporary loans in an amount not more than fifty percent (50%) of the total anticipated revenue for the remainder of the year in which the loans are taken out.

(b) The legislative body must authorize the temporary loans by a resolution:

(1) stating the nature of the consideration for the loans;

(2) stating the date the loans are payable;

(3) stating the place the loans are payable;

(4) stating a rate of interest;

(5) stating the anticipated revenues on which the loans are based and out of which they are payable; and

(6) appropriating a sufficient amount of the anticipated revenues on which the loans are based and out of which they are payable for the payment of the loans.

(c) The loans must be evidenced by time warrants of the township district stating:

(1) the nature of the consideration;

(2) the date payable;

(3) the place payable; and

(4) the anticipated revenues on which they are based and out of which they are payable.

SECTION 155. IC 36-6-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. (a) Except as provided in subsection (b), this chapter applies to all townships.

(b) Sections 5, 6, 9, 10, and 11 of this chapter do not apply to a township located in a county having a consolidated city.

SECTION 156. IC 36-6-8-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 10. (a) The county fiscal body shall, in the manner prescribed by IC 36-2-5 or IC 36-2-6, fix and appropriate money to pay the per diem established under section 5 of this chapter and the salaries and per diems of the county's township assessors and any deputies or other employees that assist the elected township assessor.

(b) Each township assessor shall file the budget estimate required by IC 36-2-5-5. ~~or IC 36-3-6-4.~~ The budget estimate filed under this subsection must include all estimated expenses of the office, including costs incurred through litigation for the office.

(c) If the township executive is performing the duties of assessor,

the county fiscal body shall appropriate money for the purposes of subsection (a) and other expenses of acting as assessor, including all costs incurred through litigation for the office. However, it may not provide a salary that is below the amount fixed for that salary for the year 1984.

SECTION 157. IC 36-7-11.2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 11. As used in this chapter, "notice" means written notice:

- (1) served personally upon the person, official, or office entitled to the notice; or
- (2) served upon the person, official, or office by placing the notice in the United States mail, first class postage prepaid, properly addressed to the person, official, or office. Notice is considered served if mailed in the manner prescribed by this subdivision properly addressed to the following:
  - (A) The governor, both to the address of the governor's official residence and to the governor's executive office in Indianapolis.
  - (B) The Indiana department of transportation, to the commissioner.
  - (C) The department of natural resources, both to the director of the department and to the director of the department's division of historic preservation and archeology.
  - (D) The department of metropolitan development.
  - (E) An occupant, to:
    - (i) the person by name; or
    - (ii) if the name is unknown, to the "Occupant" at the address of the Meridian Street or bordering property occupied by the person.
  - (F) An owner, to the person by the name shown to be the name of the owner, and at the person's address, as the address appears in the records in the bound volumes of the most recent real estate tax assessment records as the records appear in the offices of the **township assessors county assessor** in Marion County.
  - (G) A neighborhood association or the society, to the organization at the latest address as shown in the records of the commission.

SECTION 158. IC 36-7-11.2-58 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 58. (a) A person who has filed a petition under section 56 or 57 of this chapter shall, not later than ten (10) days after the filing, serve notice upon all interested parties. The notice must state the following:

- (1) The full name and address of the following:
  - (A) The petitioner.
  - (B) Each attorney acting for and on behalf of the petitioner.
- (2) The street address of the Meridian Street and bordering property for which the petition was filed.
- (3) The name of the owner of the property.
- (4) The full name and address of, and the type of business, if any, conducted by:
  - (A) each person who at the time of the filing is a party to; and
  - (B) each person who is a disclosed or an undisclosed principal for whom the party was acting as agent in entering into;
 

a contract of sale, lease, option to purchase or lease, agreement to build or develop, or other written agreement of any kind or nature concerning the subject property or the present or future ownership, use, occupancy, possession, or development of the subject property.
- (5) A description of the contract of sale, lease, option to purchase or lease, agreement to build or develop, or other written agreement sufficient to disclose the full nature of the interest of the party or of the party's principal in the subject property or in the present or future ownership, use, occupancy, possession, or development of the subject property.
- (6) A description of the proposed use for which the rezoning or zoning variance is sought, sufficiently detailed to appraise the notice recipient of the true character, nature, extent, and physical properties of the proposed use.
- (7) The date of the filing of the petition.
- (8) The date, time, and place of the next regular meeting of the

commission if a petition is for approval of a zoning variance. If a petition is filed with the development commission, the notice does not have to specify the date of a hearing before the commission or the development commission. However, the person filing the petition shall give ten (10) days notice of the date, time, and place of a hearing before the commission on the petition after the referral of the petition to the commission by the development commission.

(b) For purposes of giving notice to the interested parties who are owners, the records in the bound volumes of the recent real estate tax assessment records as the records appear in the offices of the ~~township assessors~~ **county assessor** as of the date of filing are considered determinative of the persons who are owners.

SECTION 159. IC 36-7-15.1-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 32. (a) The commission must establish a program for housing. The program, which may include such elements as the commission considers appropriate, must be adopted as part of a redevelopment plan or amendment to a redevelopment plan, and must establish an allocation area for purposes of sections 26 and 35 of this chapter for the accomplishment of the program.

(b) The notice and hearing provisions of sections 10 and 10.5 of this chapter apply to the resolution adopted under subsection (a). Judicial review of the resolution may be made under section 11 of this chapter.

(c) Before formal submission of any housing program to the commission, the department shall consult with persons interested in or affected by the proposed program and provide the affected neighborhood associations, residents, and ~~township assessors~~ **the county assessor** with an adequate opportunity to participate in an advisory role in planning, implementing, and evaluating the proposed program. The department may hold public meetings in the affected neighborhood to obtain the views of neighborhood associations and residents.

SECTION 160. IC 36-8-7-1, AS AMENDED BY P.L.227-2005, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. (a) This chapter applies to pension benefits for members of fire departments hired before May 1, 1977, in units for which a 1937 fund was established before May 1, 1977.

(b) A firefighter with twenty (20) years of service is covered by this chapter and not by IC 36-8-8 if the firefighter:

- (1) was hired before May 1, 1977;
- (2) did not convert under IC 19-1-36.5-7 (repealed September 1, 1981); and
- (3) is rehired after April 30, 1977, by the same employer.

(c) A firefighter is covered by this chapter and not by IC 36-8-8 if the firefighter:

- (1) was hired before May 1, 1977;
- (2) did not convert under IC 19-1-36.5-7 (repealed September 1, 1981);
- (3) was rehired after April 30, 1977, but before February 1, 1979; and
- (4) was made, before February 1, 1979, a member of a 1937 fund.

(d) A firefighter who:

- (1) is covered by this chapter before ~~a consolidation under IC 36-3-1-6.1, January 1, 2007;~~ and
- (2) **after December 31, 2006**, becomes a member of a fire department of a consolidated city under IC 36-3-1-6.1;

is covered by this chapter after ~~the effective date of the consolidation, December 31, 2006~~, and the firefighter's service as a member of a fire department of a consolidated city is considered active service under this chapter.

SECTION 161. IC 36-8-7-4, AS AMENDED BY P.L.227-2005, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 4. (a) If a unit has less than five (5) members in its fire department, the unit may provide for the organization of a local board consisting of the fire chief, the executive of the unit, and one (1) member of the fire department.

(b) The trustee from the fire department shall be elected under this section.

(c) The local board may amend the bylaws of the fund to elect the

trustee from the fire department in an election held on any three (3) consecutive days in February specified in the bylaws. The election shall be called by the fire chief and held at the house or quarters of the fire department. Subject to this section, the election shall be conducted in the manner specified in the bylaws.

(d) This subsection applies only if the local board does not elect to be governed by subsection (c). The trustee from the fire department shall be elected at a meeting held on the second Monday in February each year. The meeting shall be called by the fire chief and held at the house or quarters of the fire department.

(e) The term of the elected trustee is one (1) year beginning immediately after the trustee's election.

(f) Each member of the department is entitled to one (1) ballot and the person receiving the highest number of votes is elected. The executive of the unit, the fire chief, and the city or county clerk shall canvass and count the ballots, and the clerk shall issue a certificate of election to the person having received the highest number of votes. If two (2) persons have received the same number of votes, the executive and the chief shall immediately determine by lot who will be the trustee from the persons receiving an equal number of votes.

~~(g) This section does not apply to a township if the fire department of the township is consolidated under IC 36-3-1-6.1.~~

SECTION 162. IC 36-8-7-5, AS AMENDED BY P.L.227-2005, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 5. (a) An election shall be held each year under this section to elect one (1) trustee from the active members of the fire department for a term of four (4) years, commencing on the day of his election. The fire chief shall fix a time for holding a convention to nominate candidates for trustees to be elected at each election. Each convention must be held at least five (5) days before the day on which the annual election is held. A convention consists of one (1) delegate from each fire company and one (1) delegate to be selected by the chief and the chief's assistants. The delegate from each fire company shall be elected by ballot by the members of the company at a time to be fixed by the chief in the call for a convention. The election of delegates shall be certified by the captain or other officer of the company, or, if there is not an officer present, then by the oldest member of the company present. The convention, when assembled, shall nominate six (6) members of the fire department to be voted upon as trustees, and the delegates shall report the names of the persons nominated as candidates to their respective companies in writing.

(b) The local board may amend the bylaws of the fund to elect the trustee from the active members of the fire department in an election held on any three (3) consecutive days in February specified in the bylaws. The election shall be called by the fire chief and held at the house or quarters of the respective companies of the fire department. Subject to this section, the election shall be conducted in the manner specified in the bylaws.

(c) This subsection applies only if the local board does not elect to be governed by subsection (b). The election shall be held at the houses or quarters of the respective companies on the second Monday in February between 9 a.m. and 6 p.m.

(d) Each member of a fire company is entitled to one (1) ballot, and the ballot may not contain the names of more than one (1) person, chosen from the six (6) persons nominated by the convention. The candidate receiving the highest number of votes is elected.

(e) The captain or other officer in command of each of the fire companies, immediately after the casting of all ballots, shall canvass and count the ballots. The captain or other officer shall certify in writing the total number of ballots cast and the number of votes received by each candidate for the office of trustee. After signing the certificate, the officer shall enclose it, together with all the ballots cast by the fire company, in an envelope, securely sealed and addressed, and deliver them to the fire chief. The fire chief shall deliver them to the executive of the unit as soon as the chief receives all the certificates and ballots. Upon receipt the executive shall, in the presence of the chief and the clerk of the unit, open the envelopes, examine the certificates, and determine the total number of votes cast for each of the candidates. The executive shall then issue a certificate of election to the candidate having received the highest number of votes. If two (2) or more candidates have received the same number of votes, the executive and the chief shall immediately determine by

lot who will be trustee from the persons receiving an equal number of votes. An election may not be set aside for lack of formality in balloting by the members or in certifying or transmitting the returns of an election by the officers in charge.

~~(f) This section does not apply to a township if the fire department of the township is consolidated under IC 36-3-1-6.1.~~

SECTION 163. IC 36-8-7-6, AS AMENDED BY P.L.227-2005, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 6. (a) An election shall be held under this section every two (2) years to elect one (1) trustee from the retired members of the fire department for a term of two (2) years, commencing on the day of the trustee's election, if the retired list contains at least three (3) retired members at the time of election. The fire chief shall fix a time for holding a convention to nominate candidates for trustee to be elected at each election. Each convention must be held at least fifteen (15) days before the day on which the biennial election is held. All retired members of the fire department may participate in the convention. The convention, when assembled, shall nominate not more than four (4) members of the retired list to be voted upon as trustee. The secretary of the board shall mail the names of the persons nominated along with an official ballot to the retired members within forty-eight (48) hours of the end of the convention.

(b) The election shall be conducted by mail. Each retired member is entitled to cast one (1) ballot by mail and the ballot may not contain more than one (1) name, chosen from the list of retired persons nominated by the convention. The candidate receiving the highest number of votes by 6 p.m. on the second Monday in February or an alternative date in February specified in the bylaws of the fund is elected.

(c) The ballots must remain closed and inviolate until the close of the election, at which time, in the presence of the executive of the unit, the fire chief, and the clerk of the unit, the ballots shall be opened and counted. A certificate of election shall be issued to the candidate receiving the highest number of votes. If two (2) or more candidates receive the same number of votes, the executive and the chief shall immediately determine by lot who will be trustee from the persons receiving an equal number of votes.

~~(d) This section does not apply to a township if the fire department of the township is consolidated under IC 36-3-1-6.1.~~

SECTION 164. IC 36-8-7-6.5, AS AMENDED BY P.L.227-2005, SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 6.5. (a) All ballots voted under this chapter shall be secured until the balloting is closed.

(b) Tampering with a ballot for an election under this chapter is a Class A infraction.

~~(c) This section does not apply to a township if the fire department of the township is consolidated under IC 36-3-1-6.1.~~

SECTION 165. IC 36-8-7-7, AS AMENDED BY P.L.227-2005, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 7. (a) The fire chief is the president of the local board.

(b) At the first meeting after each election, the local board shall elect a secretary, who may be chosen from among the trustees. However, the local board may consider it proper to have a secretary who is a member of the fire department, to be elected by the companies for a term of four (4) years in the same manner as the election for trustees. The secretary shall keep a full record of all the proceedings of the local board in a book provided for that purpose.

(c) The local board shall make all rules necessary for the discharge of its duties and shall hear and determine all applications for relief or pensions under this chapter.

~~(d) This section does not apply to a township if the fire department of the township is consolidated under IC 36-3-1-6.1.~~

SECTION 166. IC 36-8-8-1, AS AMENDED BY P.L.227-2005, SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. This chapter applies to:

- (1) full-time police officers hired or rehired after April 30, 1977, in all municipalities, or who converted their benefits under IC 19-1-17.8-7 (repealed September 1, 1981);
- (2) full-time fully paid firefighters hired or rehired after April 30, 1977, or who converted their benefits under IC 19-1-36.5-7 (repealed September 1, 1981);
- (3) a police matron hired or rehired after April 30, 1977, and

before July 1, 1996, who is a member of a police department in a second or third class city on March 31, 1996;

(4) a park ranger who:

(A) completed at least the number of weeks of training at the Indiana law enforcement academy or a comparable law enforcement academy in another state that were required at the time the park ranger attended the Indiana law enforcement academy or the law enforcement academy in another state;

(B) graduated from the Indiana law enforcement academy or a comparable law enforcement academy in another state; and

(C) is employed by the parks department of a city having a population of more than one hundred twenty thousand (120,000) but less than one hundred fifty thousand (150,000);

(5) a full-time fully paid firefighter who is covered by this chapter before ~~the effective date of consolidation~~ **January 1, 2007**, and, **after December 31, 2006**, becomes a member of the fire department of a consolidated city under IC 36-3-1-6.1 or **IC 36-3-1-6.3**; **provided that however**, the firefighter's service as a member of the fire department of a consolidated city is considered active service under this chapter;

(6) except as otherwise provided, a full-time fully paid firefighter who is hired or rehired after ~~the effective date of the consolidation~~ **December 31, 2006**, by a consolidated fire department established under IC 36-3-1-6.1;

(7) a full-time police officer who is covered by this chapter before the effective date of consolidation and becomes a member of the consolidated law enforcement department as part of the consolidation under IC 36-3-1-5.1, provided that the officer's service as a member of the consolidated law enforcement department is considered active service under this chapter; and

(8) except as otherwise provided, a full-time police officer who is hired or rehired after the effective date of the consolidation by a consolidated law enforcement department established under IC 36-3-1-5.1;

except as provided by section 7 of this chapter.

SECTION 167. IC 36-8-8-2.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 2.1. (a) As used in this chapter, "local board" means the following:

(1) For a unit that established a 1925 fund for its police officers, the local board described in IC 36-8-6-2.

(2) **Except as provided in subdivision (3)**, for a unit that established a 1937 fund for its firefighters, the local board described in IC 36-8-7-3.

(3) **For a unit that established a 1937 fund for its firefighters and consolidates its fire department into the fire department of a consolidated city under IC 36-3-1-6.1 or IC 36-3-1-6.3:**

(A) **before the date the consolidation is effective, the local board described in IC 36-8-7-3; and**

(B) **on and after the date the consolidation is effective, the local board of the consolidated city established under IC 36-8-7-3.**

~~(4)~~ (4) For a consolidated city that established a 1953 fund for its police officers, the local board described in IC 36-8-7.5-2.

~~(5)~~ (5) For a unit, other than a consolidated city, that did not establish a 1925 fund for its police officers or a 1937 fund for its firefighters, the local board described in subsection (b) or (c).

(b) If a unit did not establish a 1925 fund for its police officers, a local board shall be composed in the same manner described in IC 36-8-6-2(b). However, if there is not a retired member of the department, no one shall be appointed to that position until such time as there is a retired member.

(c) **Except as provided in subsection (d)**, if a unit did not establish a 1937 fund for its firefighters, a local board shall be composed in the same manner described in IC 36-8-7-3(b). However, if there is not a retired member of the department, no one shall be appointed to that position until such time as there is a retired member.

(d) **If a unit located in a county containing a consolidated city did not establish a 1937 fund for its firefighters and consolidates its fire department into the fire department of the consolidated**

**city under IC 36-3-1-6.1 or IC 36-3-1-6.3, the local board is:**

**(1) before the effective date of the consolidation, the local board described in IC 36-8-7-3; and**

**(2) on and after the effective date of the consolidation, the local board of the consolidated city established under IC 36-8-7-3.**

SECTION 168. IC 36-8-8-7, AS AMENDED BY P.L.227-2005, SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 7. (a) Except as provided in subsections (d), (e), (f), (g), (h), (k), (l), ~~and (m)~~:

(1) a police officer; or

(2) a firefighter;

who is less than thirty-six (36) years of age and who passes the baseline statewide physical and mental examinations required under section 19 of this chapter shall be a member of the 1977 fund and is not a member of the 1925 fund, the 1937 fund, or the 1953 fund.

(b) A police officer or firefighter with service before May 1, 1977, who is hired or rehired after April 30, 1977, may receive credit under this chapter for service as a police officer or firefighter prior to entry into the 1977 fund if the employer who rehires the police officer or firefighter chooses to contribute to the 1977 fund the amount necessary to amortize the police officer's or firefighter's prior service liability over a period of not more than forty (40) years, the amount and the period to be determined by the PERF board. If the employer chooses to make the contributions, the police officer or firefighter is entitled to receive credit for the police officer's or firefighter's prior years of service without making contributions to the 1977 fund for that prior service. In no event may a police officer or firefighter receive credit for prior years of service if the police officer or firefighter is receiving a benefit or is entitled to receive a benefit in the future from any other public pension plan with respect to the prior years of service.

(c) Except as provided in section 18 of this chapter, a police officer or firefighter is entitled to credit for all years of service after April 30, 1977, with the police or fire department of an employer covered by this chapter.

(d) A police officer or firefighter with twenty (20) years of service does not become a member of the 1977 fund and is not covered by this chapter, if the police officer or firefighter:

(1) was hired before May 1, 1977;

(2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981); and

(3) is rehired after April 30, 1977, by the same employer.

(e) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if the police officer or firefighter:

(1) was hired before May 1, 1977;

(2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981);

(3) was rehired after April 30, 1977, but before February 1, 1979; and

(4) was made, before February 1, 1979, a member of a 1925, 1937, or 1953 fund.

(f) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if the police officer or firefighter:

(1) was hired by the police or fire department of a unit before May 1, 1977;

(2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981);

(3) is rehired by the police or fire department of another unit after December 31, 1981; and

(4) is made, by the fiscal body of the other unit after December 31, 1981, a member of a 1925, 1937, or 1953 fund of the other unit.

If the police officer or firefighter is made a member of a 1925, 1937, or 1953 fund, the police officer or firefighter is entitled to receive credit for all the police officer's or firefighter's years of service, including years before January 1, 1982.

(g) As used in this subsection, "emergency medical services" and "emergency medical technician" have the meanings set forth in IC 16-18-2-110 and IC 16-18-2-112. A firefighter who:

(1) is employed by a unit that is participating in the 1977 fund;

(2) was employed as an emergency medical technician by a political subdivision wholly or partially within the department's jurisdiction;

(3) was a member of the public employees' retirement fund during the employment described in subdivision (2); and

(4) ceased employment with the political subdivision and was hired by the unit's fire department due to the reorganization of emergency medical services within the department's jurisdiction;

shall participate in the 1977 fund. A firefighter who participates in the 1977 fund under this subsection is subject to sections 18 and 21 of this chapter.

(h) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if the individual was appointed as:

(1) a fire chief under a waiver under IC 36-8-4-6(c); or

(2) a police chief under a waiver under IC 36-8-4-6.5(c);

unless the executive of the unit requests that the 1977 fund accept the individual in the 1977 fund and the individual previously was a member of the 1977 fund.

(i) A police matron hired or rehired after April 30, 1977, and before July 1, 1996, who is a member of a police department in a second or third class city on March 31, 1996, is a member of the 1977 fund.

(j) A park ranger who:

(1) completed at least the number of weeks of training at the Indiana law enforcement academy or a comparable law enforcement academy in another state that were required at the time the park ranger attended the Indiana law enforcement academy or the law enforcement academy in another state;

(2) graduated from the Indiana law enforcement academy or a comparable law enforcement academy in another state; and

(3) is employed by the parks department of a city having a population of more than one hundred twenty thousand (120,000) but less than one hundred fifty thousand (150,000);

is a member of the fund.

(k) Notwithstanding any other provision of this chapter, a police officer or firefighter:

(1) who is a member of the 1977 fund before a consolidation under IC 36-3-1-5.1, ~~or~~ IC 36-3-1-6.1, **or IC 36-3-1-6.3;**

(2) whose employer is consolidated into the **consolidated law enforcement department or the** fire department of a consolidated city under IC 36-3-1-5.1, ~~or~~ IC 36-3-1-6.1, **or IC 36-3-1-6.3;** and

(3) who, after the consolidation, becomes an employee of the consolidated law enforcement department or the consolidated fire department under IC 36-3-1-5.1, ~~or~~ IC 36-3-1-6.1, **or IC 36-3-1-6.3;**

is a member of the 1977 fund without meeting the requirements under sections 19 and 21 of this chapter.

(l) Notwithstanding any other provision of this chapter, a police officer or firefighter who:

(1) before a consolidation under IC 36-3-1-5.1 or IC 36-3-1-6.1, provides law enforcement services or fire protection services for an entity in a consolidated city;

(2) has the provision of those services consolidated into the **consolidated law enforcement department or the** fire department of a consolidated city **under IC 36-3-1-5.1 or IC 36-3-1-6.1;** and

(3) after the consolidation, becomes an employee of the consolidated law enforcement department or the consolidated fire department under IC 36-3-1-5.1 or IC 36-3-1-6.1;

is a member of the 1977 fund without meeting the requirements under sections 19 and 21 of this chapter.

(m) A police officer or firefighter who is a member of the 1977 fund under subsection (k) or (l):

(1) may not be:

(+) (A) retired for purposes of section 10 of this chapter; or

(-) (B) disabled for purposes of section 12 of this chapter; solely because of a change in employer under the consolidation; **and**

(2) shall receive credit for all years of service as a member of the 1977 fund before the consolidation described in

**subsection (k) or (l).**

SECTION 169. IC 36-8-13-1, AS AMENDED BY P.L.227-2005, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. This chapter applies to all townships, ~~However, this chapter does not apply to a township in which the fire department of the township has been consolidated under IC 36-3-1-6.1.~~ **except townships located in a consolidated city.**

SECTION 170. IC 36-8-19-1.5, AS ADDED BY P.L.227-2005, SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1.5. ~~If the fire departments of a township is consolidated under IC 36-3-1-6.1, after the effective date of the consolidation the township may not establish fire protection territory under this chapter.~~ **(a) In a county having a consolidated city, only:**

**(1) a consolidated city; or**

**(2) an excluded city;**

**may establish a fire protection territory under this chapter.**

(b) A fire protection territory that is established before the effective date of the consolidation in a township in which the township's fire department **January 1, 2007, by a unit that** is consolidated under IC 36-3-1-6.1 becomes part of the geographic area in which the fire department of a consolidated city provides fire protection services.

SECTION 171. IC 36-9-11.1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 11. (a) All property of every kind, including air rights, acquired for off-street parking purposes, and all its funds and receipts, are exempt from taxation for all purposes. When any real property is acquired by the consolidated city, the county auditor shall, upon certification of that fact by the board, cancel all taxes then a lien. The certificate of the board must specifically describe the real property, including air rights, and the purpose for which acquired.

(b) A lessee of the city may not be assessed any tax upon any land, air rights, or improvements leased from the city, but the separate leasehold interest has the same status as leases on taxable real property, notwithstanding any other law. Whenever the city sells any such property to anyone for private use, the property becomes liable for all taxes after that, as other property is so liable and is assessed, and the board shall report all such sales to the ~~township~~ **county** assessor, who shall cause the property to be upon the proper tax records.

SECTION 172. IC 36-9-17.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 1. **(a) Except as provided in subsection (b), this chapter applies to all townships: a township.**

**(b) This chapter does not apply to a township or township district in a county having a consolidated city.**

SECTION 173. IC 36-10-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 1. **(a) Except as provided in subsection (b), this chapter applies to the townships indicated in each section.**

**(b) This chapter does not apply to a township in a county having a consolidated city. All powers and duties related to parks and recreation of the townships in a county having a consolidated city are transferred to the consolidated city.**

SECTION 174. IC 36-10-7.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 1. **(a) Except as provided in subsection (b), this chapter applies to all townships: a township.**

**(b) This chapter does not apply to a township in a county having a consolidated city, and all powers and duties related to parks and recreation of the townships in a county having a consolidated city are transferred to the consolidated city.**

SECTION 175. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2006]: IC 3-11-1.5-32.5; IC 33-34; IC 36-6-6-2.5; IC 36-8-4.3.

SECTION 176. [EFFECTIVE JULY 1, 2006] **The general assembly finds the following:**

**(1) A consolidated city faces unique budget challenges due to a high demand for services combined with the large number of tax exempt properties located in a consolidated city as the seat of state government, home to several institutions of higher education, and home to numerous**

national, state, and regional nonprofit corporations.

(2) By virtue of its size and population density, a consolidated city has unique overlapping territories of county, city, and township government and an absence of unincorporated areas within its county.

(3) By virtue of its size, population, and absence of unincorporated areas, development extends to and across the boundaries of the contiguous governmental territories located within a county having a consolidated city, thus giving less meaning to boundaries of the governmental territories located within the county.

(4) By virtue of its size, population, absence of unincorporated areas, overlapping territories, and development to and across the boundaries of contiguous governmental territories, there is less need for differentiation of local governmental services within the separate governmental territories located within a county having a consolidated city, but rather the local governmental service needs are similar and more uniform within and across a county having a consolidated city.

(5) The provision of local governmental services by multiple governmental entities with overlapping territories, and by governmental entities with contiguous territories with less meaningful boundaries, results in disparate levels of local government services within a county having a consolidated city and results in the inefficient and poor use of taxpayer dollars.

(6) As the state capital and a center for professional sporting events, tourism, and culture in central Indiana, the consolidated city faces unique demands for protecting governmental property and securing the safety of large numbers of residents and visitors, which require innovative approaches to public safety resources.

(7) If public safety resources are consolidated, residual services provided by townships are limited and can more effectively and uniformly be performed through consolidation at the city or county level.

(8) By virtue of its size and population patterns, township assistance needs in a consolidated city are greatest in its urban center and differ from the township assistance needs outside the urban center, and the lesser township assistance services outside the urban center can be more effectively and uniformly delivered through a consolidated district.

(9) Substantial operational efficiencies, reduction of administrative costs, and economies of scale may be obtained in a consolidated city through further consolidation of county, city, and township services and operations.

(10) Consolidation of county, city, and township services and operations in the consolidated city will serve the public purpose by allowing the consolidated city to:

- (A) eliminate duplicative services;
- (B) provide better coordinated and more uniform delivery of local governmental services;
- (C) provide uniform oversight and accountability for the budgets for local governmental services;
- (D) simplify the system of property taxation;
- (E) provide more unified tax rates; and
- (F) allow local government services to be provided more efficiently and at a lower cost than without consolidation.

(11) Efficient and fiscally responsible operation of local government benefits the health and welfare of the citizens of a consolidated city and is of public utility and benefit.

(12) The public purpose of this act is to provide a consolidated city with the means to perform essential governmental services for its citizens in an effective, efficient, and fiscally responsible manner.

SECTION 177. [EFFECTIVE JULY 1, 2006] For property taxes first due and payable in 2007, the maximum permissible ad valorem property tax levy under IC 6-1.1-18.5 for a county having a consolidated city is increased by the amount levied in 2006 for assessor and related services by each township in the county.

SECTION 178. [EFFECTIVE JULY 1, 2006] Each township

district shall refer the township district's proposed budget, ad valorem property tax levy, and property tax rate for 2009 to the local government tax control board, which shall review and set the budget, levy, and rate as though the township district is covered by IC 6-1.1-18.5-7. For property taxes first due and payable in 2009, the maximum permissible ad valorem property tax limits and any other limits on ad valorem property taxes set forth in IC 6-1.1-18.5 for:

(1) a central township district shall be based upon the sum of:

(A) the amount levied in 2008 for the general fund; plus  
(B) the amount levied in 2008 for township assistance, including reasonable administrative costs, in the central township district in a county having a consolidated city; plus

(C) thirty-five percent (35%) of the amount levied in 2008 for township assistance, including reasonable administrative costs, by each other township located in the county containing a consolidated city; and

(2) a consolidated township district shall be based upon sixty-five percent (65%) of the amount levied in 2008 for township assistance, including reasonable administrative costs, by each township located in a county having a consolidated city, other than the central township district in a county having a consolidated city.

SECTION 179. [EFFECTIVE JULY 1, 2006] (a) Any case pending in a township small claims court established by IC 33-34, as repealed by this act, after the close of business on December 31, 2006, is transferred on January 1, 2007, to the corresponding township division of the small claims division of the Marion superior court established under IC 33-33-49-14(c)(5) and IC 33-33-49-14.1, both as added by this act. A case transferred under this SECTION shall be treated as if the case were filed in the corresponding township division of the small claims division of the Marion superior court.

(b) On January 1, 2007, all property and obligations of a township small claims court established by IC 33-34, as repealed by this act, become the property and obligations of the corresponding township division of the small claims division of the Marion superior court established under IC 33-33-49-14(c)(5) and IC 33-33-49-14.1, both as added by this act.

(c) This SECTION expires January 2, 2008.

SECTION 180. [EFFECTIVE JULY 1, 2006] (a) Notwithstanding the amendment and repeal by this act of provisions in IC 33-33-49 and IC 33-34, the term of a judge in office in a township small claims court established by IC 33-34, as repealed by this act, does not terminate until the date that the term would have terminated under the law in effect on December 31, 2006. The election for the initial small claims judges to be elected to the township divisions of the small claims division of the Marion superior court under IC 33-33-49-13.1, as added by this act, is the election to be held in the November immediately preceding the date that the corresponding term of the judge in office in a township small claims court established by IC 33-34, as repealed by this act, on December 31, 2006, would have terminated under the law in effect on December 31, 2006.

(b) Notwithstanding the amendment and repeal by this act of provisions in IC 33-33-49 and IC 33-34, the term of a constable for a township small claims court established by IC 33-34, as repealed by this act, does not terminate until the date that the term would have terminated under the law in effect on December 31, 2006. The election for the initial small claims constables to be elected under IC 33-33-49-14.2, as added by this act, is the election to be held in the November immediately preceding the date that the corresponding term of the constable for a township small claims court established by IC 33-34, as repealed by this act, on December 31, 2006, would have terminated under the law in effect on December 31, 2006.

(c) This SECTION expires January 2, 2011.

SECTION 181. [EFFECTIVE JULY 1, 2006] (a) For property taxes first due and payable in 2007, the maximum permissible ad valorem property tax levy under IC 6-1.1-18.5:

(1) is increased for a consolidated city by the amount levied in 2006 for fire protection and related services by each:

- (A) township;
- (B) airport authority;
- (C) fire protection territory; or
- (D) excluded city;

whose fire department is consolidated into the fire department of a consolidated city under IC 36-3-1-6.1, as amended by this act, or IC 36-3-1-6.3, as added by this act; and

(2) is reduced for:

- (A) a township;
- (B) an airport authority;
- (C) a fire protection territory; or
- (D) an excluded city;

whose fire department is consolidated into the fire department of a consolidated city under IC 36-3-1-6.1, as amended by this act, or IC 36-3-1-6.3, as added by this act, by the amount levied in 2006 for fire protection and related services by each township, airport authority, fire protection territory, or excluded city whose fire department is consolidated into the fire department of a consolidated city under IC 36-3-1-6.1, as amended by this act, or IC 36-3-1-6.3, as added by this act.

(b) This SECTION expires January 1, 2008.

SECTION 182. [EFFECTIVE JULY 1, 2006] For property taxes first due and payable in 2007, the amount levied in 2006 by each:

- (1) township;
- (2) airport authority;
- (3) fire protection territory; or
- (4) excluded city;

whose fire department is consolidated into the fire department of a consolidated city under IC 36-3-1-6.1, as amended by this act, or IC 36-3-1-6.3, as added by this act, for its cumulative building and equipment fund for fire protection and related services is transferred to the consolidated city's cumulative building and equipment fund for fire protection and related services, which is hereby established. The consolidated city is exempted from the requirements of IC 36-8-14 and IC 6-1.1-41 regarding establishment of the cumulative building and equipment fund for fire protection and related services.

SECTION 183. [EFFECTIVE UPON PASSAGE] (a) This SECTION applies only to a township in a county having a consolidated city.

(b) Notwithstanding IC 3-10-2-13, as amended by this act, a township assessor for each township in the county shall be elected at the 2006 general election for a term of two (2) years beginning on January 1 following the election as set forth in IC 36-6-5-1, as amended by this act.

(c) This SECTION expires on January 1, 2009.

SECTION 184. [EFFECTIVE UPON PASSAGE] (a) This SECTION applies only to a township in a county having a consolidated city.

(b) Notwithstanding IC 3-10-2-13, as amended by this act, a township trustee for each township in the county shall be elected at the 2006 general election for a term of two (2) years beginning on January 1 following the election as set forth in IC 36-6-4-2, as amended by this act.

(c) This SECTION expires January 1, 2009.

SECTION 185. [EFFECTIVE JULY 1, 2006] The legislative services agency shall prepare legislation for introduction in the 2007 regular session of the general assembly to organize and correct statutes affected by this act, if necessary."

Renumber all SECTIONS consecutively.

(Reference is to HB 1362 as printed January 20, 2006.)

CRAWFORD

Representative Whetstone rose to a point of order, citing Rule 118, stating that the motion was attempting to incorporate into House Bill 1362 a bill pending before the House. After discussion, Representative Whetstone withdrew the point of order.

The question then was on the motion of Representative Crawford. Upon request of Representatives and Bauer, the Speaker ordered the roll of the House to be called. Roll Call 31: yeas 47, nays 48. Motion failed.

HOUSE MOTION  
(Amendment 1362-1)

Mr. Speaker: I move that House Bill 1362 be amended to read as follows:

Page 14, line 18, delete "regularly scheduled" and insert "**general**". (Reference is to HB 1362 as printed January 20, 2006.)

VAN HAAFTEN

Upon request of Representatives VanHaaften and Stilwell, the Speaker ordered the roll of the House to be called. Roll Call 32: yeas 48, nays 49. Motion failed.

HOUSE MOTION  
(Amendment 1362-2)

Mr. Speaker: I move that House Bill 1362 be amended to read as follows:

Page 11, delete lines 20 through 22.

(Reference is to HB 1362 as printed January 20, 2006.)

VAN HAAFTEN

Motion failed. The bill was ordered engrossed.

**House Bill 1392**

Representative Ripley called down House Bill 1392 for second reading. The bill was read a second time by title.

HOUSE MOTION  
(Amendment 1392-1)

Mr. Speaker: I move that House Bill 1392 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-3-1-3.5, AS AMENDED BY P.L.246-2005, SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3.5. When used in this article, the term "adjusted gross income" shall mean the following:

(a) In the case of all individuals, "adjusted gross income" (as defined in Section 62 of the Internal Revenue Code), modified as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 62 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(3) Subtract one thousand dollars (\$1,000), or in the case of a joint return filed by a husband and wife, subtract for each spouse one thousand dollars (\$1,000).

(4) Subtract one thousand dollars (\$1,000) for:

(A) each of the exemptions provided by Section 151(c) of the Internal Revenue Code;

(B) each additional amount allowable under Section 63(f) of the Internal Revenue Code; and

(C) the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(5) Subtract:

(A) one thousand five hundred dollars (\$1,500) for each of the exemptions allowed under Section 151(c)(1)(B) of the Internal Revenue Code for taxable years beginning after December 31, 1996; and

(B) five hundred dollars (\$500) for each additional amount allowable under Section 63(f)(1) of the Internal Revenue Code if the adjusted gross income of the taxpayer, or the taxpayer and the taxpayer's spouse in the case of a joint return, is less than forty thousand dollars (\$40,000).

This amount is in addition to the amount subtracted under subdivision (4).

(6) Subtract an amount equal to the lesser of:

(A) that part of the individual's adjusted gross income (as defined in Section 62 of the Internal Revenue Code) for that taxable year that is subject to a tax that is imposed by a political subdivision of another state and that is imposed on or measured by income; or

- (B) two thousand dollars (\$2,000).
- (7) Add an amount equal to the total capital gain portion of a lump sum distribution (as defined in Section 402(e)(4)(D) of the Internal Revenue Code) if the lump sum distribution is received by the individual during the taxable year and if the capital gain portion of the distribution is taxed in the manner provided in Section 402 of the Internal Revenue Code.
- (8) Subtract any amounts included in federal adjusted gross income under Section 111 of the Internal Revenue Code as a recovery of items previously deducted as an itemized deduction from adjusted gross income.
- (9) Subtract any amounts included in federal adjusted gross income under the Internal Revenue Code which amounts were received by the individual as supplemental railroad retirement annuities under 45 U.S.C. 231 and which are not deductible under subdivision (1).
- (10) Add an amount equal to the deduction allowed under Section 221 of the Internal Revenue Code for married couples filing joint returns if the taxable year began before January 1, 1987.
- (11) Add an amount equal to the interest excluded from federal gross income by the individual for the taxable year under Section 128 of the Internal Revenue Code if the taxable year began before January 1, 1985.
- (12) Subtract an amount equal to the amount of federal Social Security and Railroad Retirement benefits included in a taxpayer's federal gross income by Section 86 of the Internal Revenue Code.
- (13) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the total amount of the deductions allowed pursuant to subdivisions (3), (4), (5), and (6) shall be reduced to an amount which bears the same ratio to the total as the taxpayer's income taxable in Indiana bears to the taxpayer's total income.
- (14) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7, subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the individual is not allowed under federal law to retain an amount to pay state and local income taxes.
- (15) In the case of an eligible individual, subtract the amount of a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.
- (16) For taxable years beginning after December 31, 1999, subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.
- (17) Subtract an amount equal to the lesser of:
- (A) for a taxable year:
    - (i) including any part of 2004, the amount determined under subsection (f); and
    - (ii) beginning after December 31, 2004, two thousand five hundred dollars (\$2,500); or
  - (B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.
- (18) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the individual's federal adjusted gross income.
- (19) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.
- (20) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.
- (21) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).
- (22) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.
- (23) In the case of an individual who is employed by a taxpayer that claims a credit under IC 6-3.1-31-9, add the amount of the individual's eligible benefits as provided in IC 6-3.1-31-15(a).**
- (b) In the case of corporations, the same as "taxable income" (as defined in Section 63 of the Internal Revenue Code) adjusted as follows:
- (1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.
  - (2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code.
  - (3) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.
  - (4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code.
  - (5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.
  - (6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.
  - (7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).
  - (8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.
- (c) In the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law, the same as "life insurance company taxable income" (as defined in Section 801 of the Internal Revenue Code), adjusted as follows:
- (1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.
  - (2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.
  - (3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.
  - (4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.
  - (5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which

bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 or Section 810 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(d) In the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law, the same as "taxable income" (as defined in Section 832 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(e) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.

(3) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which

bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(4) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(6) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(f) This subsection applies only to the extent that an individual paid property taxes in 2004 that were imposed for the March 1, 2002, assessment date or the January 15, 2003, assessment date. The maximum amount of the deduction under subsection (a)(17) is equal to the amount determined under STEP FIVE of the following formula:

STEP ONE: Determine the amount of property taxes that the taxpayer paid after December 31, 2003, in the taxable year for property taxes imposed for the March 1, 2002, assessment date and the January 15, 2003, assessment date.

STEP TWO: Determine the amount of property taxes that the taxpayer paid in the taxable year for the March 1, 2003, assessment date and the January 15, 2004, assessment date.

STEP THREE: Determine the result of the STEP ONE amount divided by the STEP TWO amount.

STEP FOUR: Multiply the STEP THREE amount by two thousand five hundred dollars (\$2,500).

STEP FIVE: Determine the sum of the STEP FOUR amount and two thousand five hundred dollars (\$2,500).

SECTION 2. IC 6-3.1-31 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]:

### **Chapter 31. Credit for Offering Health Benefit Plans**

#### **Sec. 1. This chapter applies to an employer that:**

**(1) employs at least ten (10) full-time employees who are located in Indiana; and**

**(2) does not offer coverage for health care services under a self-funded health benefit plan that complies with the federal Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.).**

**Sec. 2. As used in this chapter, "eligible benefits" means, with respect to an employee of a taxpayer that claims a credit under section 9 of this chapter, the total amount of health insurance premiums not included in the employee's federal adjusted gross income (as defined in Section 62 of the Internal Revenue Code) during a taxable year under the health benefit plan offered by the employer.**

**Sec. 3. As used in this chapter, "eligible taxpayer" means a taxpayer that did not provide health insurance to the taxpayer's employees in the taxable year immediately preceding the first taxable year for which the taxpayer claims a credit under this chapter.**

**Sec. 4. As used in this chapter, "full-time employee" means an employee who is normally scheduled to work at least thirty (30) hours each week.**

**Sec. 5. (a) As used in this chapter, "health benefit plan" means coverage for health care services provided under:**

**(1) an insurance policy that provides one (1) or more of the types of insurance described in Class 1(b) or Class 2(a) of IC 27-1-5-1; or**

**(2) a contract with a health maintenance organization for**

coverage of basic health care services under IC 27-13; that satisfies the requirements of Section 125 of the Internal Revenue Code.

(b) The term does not include the following:

- (1) Accident only, credit, dental, vision, Medicare supplement, long term care, or disability income insurance.
- (2) Coverage issued as a supplement to liability insurance.
- (3) Automobile medical payment insurance.
- (4) A specified disease policy issued as an individual policy.
- (5) A limited benefit health insurance policy issued as an individual policy.
- (6) A short term insurance plan that:
  - (A) may not be renewed; and
  - (B) has a duration of not more than six (6) months.
- (7) A policy that provides a stipulated daily, weekly, or monthly payment to an insured during hospital confinement, without regard to the actual expense of the confinement.
- (8) Worker's compensation or similar insurance.
- (9) A student health insurance policy.

Sec. 6. As used in this chapter, "pass through entity" means a:

- (1) corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);
- (2) partnership;
- (3) limited liability company; or
- (4) limited liability partnership.

Sec. 7. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

- (1) IC 6-3-1 through IC 6-3-7 (adjusted gross income tax);
- (2) IC 6-5.5 (financial institutions tax); and
- (3) IC 27-1-18-2 (insurance premiums tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 8. As used in this chapter, "taxpayer" means an individual or entity that:

- (1) has state tax liability; and
- (2) employs at least ten (10) full-time employees who are located in Indiana.

Sec. 9. (a) An eligible taxpayer that, after December 31, 2006, makes health insurance available to the eligible taxpayer's employees and their dependents through at least one (1) health benefit plan is entitled to a credit against the taxpayer's state tax liability for the first two (2) taxable years in which the taxpayer makes the health benefit plan available if the following requirements are met:

- (1) An employee's participation in the health benefit plan is at the employee's election.
- (2) If an employee chooses to participate in the health benefit plan, the employee may pay the employee's share of the cost of the plan using a wage assignment authorized under IC 22-2-6-2.

(b) The credit allowed under this chapter equals the lesser of:

- (1) two thousand five hundred dollars (\$2,500); or
- (2) fifty dollars (\$50) multiplied by the number of employees enrolled in the health benefit plan during the taxable year.

Sec. 10. (a) An employer may pay or provide reimbursement for all or part of the cost of a health benefit plan made available under section 9 of this chapter.

(b) An employer that pays or provides reimbursement under subsection (a) shall pay or provide reimbursement on an equal basis for all full-time employees who elect to participate in the health benefit plan.

Sec. 11. (a) If the amount determined under section 9 of this chapter for a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry the excess over to the following taxable years. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year. A taxpayer is not entitled to a carryback.

(b) A taxpayer is not entitled to a refund of any unused credit.

Sec. 12. If a pass through entity does not have state income tax liability against which the tax credit may be applied, a

shareholder or partner of the pass through entity is entitled to a tax credit equal to:

- (1) the tax credit determined for the pass through entity for the taxable year; multiplied by
- (2) the percentage of the pass through entity's distributive income to which the shareholder or partner is entitled.

Sec. 13. To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department. The taxpayer must submit to the department all information that the department determines is necessary to calculate the credit provided by this chapter and to determine the taxpayer's eligibility for the credit.

Sec. 14. (a) A taxpayer claiming a credit under this chapter shall continue to make health insurance available to the taxpayer's employees through a health benefit plan for at least twenty-four (24) consecutive months beginning on the day after the last day of the taxable year in which the taxpayer first offers the health benefit plan.

(b) If the taxpayer terminates the health benefit plan before the expiration of the period required under subsection (a), the taxpayer shall repay the department the amount of the credit received under section 9 of this chapter.

Sec. 15. (a) An employee of a taxpayer that claims a credit under this chapter shall include in the employee's state adjusted gross income (as defined in IC 6-3-1-3.5(a)) the employee's eligible benefits for:

- (1) the first taxable year in which the taxpayer offers the health benefit plan; and
- (2) the taxable year immediately following the first taxable year in which the taxpayer offers the health benefit plan.

An employee's eligible benefits are not included in the employee's state adjusted gross income (as defined in IC 6-3-1-3.5(a)) for the taxable years following the taxable year described in subdivision (2).

(b) A taxpayer that claims a credit under this chapter shall notify each of the taxpayer's employees of the amount included in the employee's state adjusted gross income (as defined in IC 6-3-1-3.5(a)) under subsection (a) at the same time the taxpayer provides the employee with the employee's W-2 federal income tax withholding statement for the taxable year."

Page 44, between lines 31 and 32, begin a new paragraph and insert:

"SECTION 28. [EFFECTIVE JANUARY 1, 2007] (a) IC 6-3-1-3.5, as amended by this act, applies only to taxable years beginning after December 31, 2006.

(b) IC 6-3.1-31, as added by this act, applies only to taxable years beginning after December 31, 2006."

Renumber all SECTIONS consecutively.

(Reference is to HB 1392 as printed January 20, 2006.)

ORENTLICHER

Representative Whetstone rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was well taken and the motion was out of order.

There being no further amendments, the bill was ordered engrossed.

### House Bill 1353

Representative Walorski called down House Bill 1353 for second reading. The bill was read a second time by title.

HOUSE MOTION  
(Amendment 1353-1)

Mr. Speaker: I move that House Bill 1353 be amended to read as follows:

Page 17, between lines 40 and 41, begin a new paragraph and insert:

"SECTION 20. IC 32-36-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) This chapter applies to an act or event that occurs within Indiana, regardless of a personality's domicile, residence, or citizenship.

(b) This chapter does not affect rights and privileges recognized under any other law that apply to a news reporting or an entertainment

medium.

(c) This chapter does not apply to the following:

(1) **Except as provided in section 21 of this chapter**, the use of a personality's name, voice, signature, photograph, image, likeness, distinctive appearance, gestures, or mannerisms in any of the following:

(A) Literary works, theatrical works, musical compositions, film, radio, or television programs.

(B) Material that has political or newsworthy value.

(C) Original works of fine art.

(D) Promotional material or an advertisement for a news reporting or an entertainment medium that:

(i) uses all or part of a past edition of the medium's own broadcast or publication; and

(ii) does not convey or reasonably suggest that a personality endorses the news reporting or entertainment medium.

(E) An advertisement or commercial announcement for a use described in this subdivision.

(2) The use of a personality's name to truthfully identify the personality as:

(A) the author of a written work; or

(B) a performer of a recorded performance;

under circumstances in which the written work or recorded performance is otherwise rightfully reproduced, exhibited, or broadcast.

(3) The use of a personality's:

(A) name;

(B) voice;

(C) signature;

(D) photograph;

(E) image;

(F) likeness;

(G) distinctive appearance;

(H) gestures; or

(I) mannerisms;

in connection with the broadcast or reporting of an event or a topic of general or public interest.

SECTION 21. IC 32-36-1-21 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 21. A person's heirs, assigns, or estate may not claim a property interest in the right of publicity of a person if the publicity is related in whole or in part to the person's criminal involvement in a state or federal criminal offense.**"

Renumber all SECTIONS consecutively.

(Reference is to HB 1353 as printed January 20, 2006.)

FOLEY

Motion prevailed. The bill was ordered engrossed.

### House Bill 1307

Representative Torr called down House Bill 1307 for second reading. The bill was read a second time by title.

#### HOUSE MOTION (Amendment 1307-6)

Mr. Speaker: I move that House Bill 1307 be amended to read as follows:

Page 18, line 35, strike "Every insurance carrier and other entity insuring or".

Page 18, strike lines 36 through 38.

Page 18, line 39, strike "employer's own risk, shall,".

Page 18, line 39, delete "on the date set by the board which".

Page 18, line 40, delete "shall not be less".

Page 18, line 40, strike "than thirty (30) days of the board sending notices under".

Page 18, strike line 41.

Page 18, line 42, strike "of the fund an assessed amount that" and insert "**The total amount of the assessment**".

Page 19, between lines 27 and 28, begin a new paragraph and insert:

**"(d) The board shall assess all employers for the liabilities, including administrative expenses, of the second injury fund. The**

**following applies to assessments under this subsection:**

**(1) The portion of the total amount that must be collected from self-insured employers equals:**

**(A) the total amount of the assessment as determined by the board; multiplied by**

**(B) the quotient of:**

**(i) the total paid losses on behalf of all self-insured employers during the preceding calendar year; divided by**

**(ii) the total paid losses on behalf of all self-insured employers and insured employers during the preceding calendar year.**

**(2) The portion of the total amount that must be collected from insured employers equals:**

**(A) the total amount of the assessment as determined by the board; multiplied by**

**(B) the quotient of:**

**(i) the total paid losses on behalf of all insured employers during the preceding calendar year; divided by**

**(ii) the total paid losses on behalf of all self-insured employers and insured employers during the preceding calendar year.**

**(3) The total amount of assessments allocated to insured employers under subdivision (2) must be collected by the insured employers' worker's compensation insurers. The amount of the assessment for each insured employer equals:**

**(A) the total amount of assessments allocated to insured employers under subdivision (3); multiplied by**

**(B) the quotient of:**

**(i) the worker's compensation direct standard premiums paid by the insured employer during the preceding calendar year; divided by**

**(ii) the worker's compensation direct standard premiums paid by all insured employers during the preceding calendar year.**

**(5) The amount of the assessment for each self-insured employer equals:**

**(A) the total amount of assessments allocated to self-insured employers under subdivision (1); multiplied by**

**(B) the quotient of:**

**(i) the paid losses attributable to the self-insured employer during the preceding calendar year; divided by**

**(ii) paid losses attributable to all self-insured employers during the preceding calendar year.**

**An employer that has ceased to be a self-insurer continues to be liable for assessments based on paid losses made by the employer in the preceding calendar year."**

Page 19, line 28, strike "(d)" and insert "(e)".

Page 19, line 38, strike "(e)" and insert "(f)".

Page 20, line 11, strike "(f)" and insert "(g)".

Page 20, line 23, strike "(g)" and insert "(h)".

Page 20, line 32, strike "(h)." and insert "(i)".

Page 20, line 33, strike "(h)" and insert "(i)".

Page 21, line 5, strike "(i)" and insert "(j)".

Page 21, line 13, strike "(j)" and insert "(k)".

(Reference is to HB 1307 as printed January 20, 2006.)

TORR

Motion prevailed.

#### HOUSE MOTION (Amendment 1307-7)

Mr. Speaker: I move that House Bill 1307 be amended to read as follows:

Page 3, line 16, delete "based on personal injury or death by".

Page 3, line 17, delete "accident".

Page 4, delete lines 35 through 42.

Delete pages 5 through 6.

Page 7, delete lines 1 through 24.

Page 29, line 41, after "paid" insert ".".

Page 29, line 41, strike "under the original award made either by".

Page 29, line 42, strike "agreement or upon hearing."

Page 30, line 12, delete "based on disablement or death by occupational disease".

Page 46, delete lines 38 through 42.

Delete page 47.

Page 48, delete lines 1 through 37.

Page 58, line 23, after "paid" insert ".".

Page 58, line 23, strike "under the original award made either by".

Page 58, line 24, strike "agreement or upon hearing".

Page 61, line 22, delete "including" and insert "**compared with those paid by**".

(Reference is to HB 1307 as printed January 20, 2006.)

TORR

Upon request of Representatives Kromkowski and Stilwell, the Speaker ordered the roll of the House to be called. Roll Call 33: yeas 52, nays 45. Motion prevailed.

HOUSE MOTION  
(Amendment 1307-3)

Mr. Speaker: I move that House Bill 1307 be amended to read as follows:

Page 1, delete lines 1 through 17.

Delete pages 2 through 6.

Page 7, delete lines 1 through 24.

Page 16, line 6, delete "2007," and insert "2006,".

Page 16, delete lines 15 through 42, begin a new line block indented and insert:

**"(9) With respect to injuries occurring on and after July 1, 2006, for each degree of permanent impairment from one (1) to ten (10), one thousand five hundred dollars (\$1,515) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand seven hundred dollars (\$1,717) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand seven hundred dollars (\$2,727) per degree; for each degree of permanent impairment above fifty (50), three thousand three hundred dollars (\$3,333) per degree.**

~~(c)~~ **(k)** The average weekly wages used in the determination of compensation for permanent partial impairment under subsections ~~(c)~~ **(i)** and ~~(d)~~ **(j)** shall not exceed the following:

(1) With respect to injuries occurring on or after July 1, 1991, and before July 1, 1992, four hundred ninety-two dollars (\$492).

(2) With respect to injuries occurring on or after July 1, 1992, and before July 1, 1993, five hundred forty dollars (\$540).

(3) With respect to injuries occurring on or after July 1, 1993, and before July 1, 1994, five hundred ninety-one dollars (\$591).

(4) With respect to injuries occurring on or after July 1, 1994, and before July 1, 1997, six hundred forty-two dollars (\$642).

(5) With respect to injuries occurring on or after July 1, 1997, and before July 1, 1998, six hundred seventy-two dollars (\$672).

(6) With respect to injuries occurring on or after July 1, 1998, and before July 1, 1999, seven hundred two dollars (\$702).

(7) With respect to injuries occurring on or after July 1, 1999, and before July 1, 2000, seven hundred thirty-two dollars (\$732).

(8) With respect to injuries occurring on or after July 1, 2000, and before July 1, 2001, seven hundred sixty-two dollars (\$762).

(9) With respect to injuries occurring on or after July 1, 2001, and before July 1, 2002, eight hundred twenty-two dollars (\$822).

(10) With respect to injuries occurring on or after July 1, 2002, and before July 1, 2006, eight hundred eighty-two dollars (\$882).

**(11) With respect to injuries occurring on or after July 1, 2006, nine hundred fifty-four dollars (\$963).**

SECTION 2. IC 22-3-3-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 22. (a) ~~In computing the compensation under this law with respect to injuries occurring on and after April 1, 1963; and prior to April 1, 1965, the average weekly wages shall be considered to be not more than seventy dollars~~

~~(70) nor less than thirty dollars (\$30). In computing the compensation under this law with respect to injuries occurring on and after April 1, 1965; and prior to April 1, 1967, the average weekly wages shall be considered to be not more than seventy-five dollars (\$75) and not less than thirty dollars (\$30). In computing the compensation under this law with respect to injuries occurring on and after April 1, 1967; and prior to April 1, 1969, the average weekly wages shall be considered to be not more than eighty-five dollars (\$85) and not less than thirty-five dollars (\$35). In computing the compensation under this law with respect to injuries occurring on and after April 1, 1969; and prior to July 1, 1971, the average weekly wages shall be considered to be not more than ninety-five dollars (\$95) and not less than thirty-five dollars (\$35). In computing the compensation under this law with respect to injuries occurring on and after July 1, 1971; and prior to July 1, 1974, the average weekly wages shall be considered to be: (A) Not more than: (1) one hundred dollars (\$100) if no dependents; (2) one hundred five dollars (\$105) if one (1) dependent; (3) one hundred ten dollars (\$110) if two (2) dependents; (4) one hundred fifteen dollars (\$115) if three (3) dependents; (5) one hundred twenty dollars (\$120) if four (4) dependents; and (6) one hundred twenty-five dollars (\$125) if five (5) or more dependents; and (B) Not less than thirty-five dollars (\$35). In computing compensation for temporary total disability; temporary partial disability; and total permanent disability under this law with respect to injuries occurring on and after July 1, 1974, and before July 1, 1976, the average weekly wages shall be considered to be (A) not more than one hundred thirty-five dollars (\$135); and (B) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall in no case exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability; temporary partial disability; and total permanent disability under this law with respect to injuries occurring on and after July 1, 1976; and before July 1, 1977, the average weekly wages shall be considered to be (1) not more than one hundred fifty-six dollars (\$156) and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability; temporary partial disability; and total permanent disability; with respect to injuries occurring on and after July 1, 1977; and before July 1, 1979, the average weekly wages are considered to be (1) not more than one hundred eighty dollars (\$180); and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable may not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability; temporary partial disability; and total permanent disability; with respect to injuries occurring on and after July 1, 1979; and before July 1, 1980, the average weekly wages are considered to be (1) not more than one hundred ninety-five dollars (\$195); and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability; temporary partial disability; and total permanent disability; with respect to injuries occurring on and after July 1, 1980; and before July 1, 1983, the average weekly wages are considered to be (1) not more than two hundred ten dollars (\$210); and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability; temporary partial disability; and total permanent disability; with respect to injuries occurring on and after July 1, 1983; and before July 1, 1984, the average weekly wages are considered to be (1) not more than two hundred thirty-four dollars (\$234) and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability; temporary partial disability; and total permanent disability; with respect to injuries occurring on and after July 1, 1984; and before July 1, 1985, the average weekly wages are considered to be (1) not more than two hundred forty-nine dollars (\$249) and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing~~

compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1985, and before July 1, 1986, the average weekly wages are considered to be:

- (1) not more than two hundred sixty-seven dollars (\$267); and
- (2) not less than seventy-five dollars (\$75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

**(b)** In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1986, and before July 1, 1988, the average weekly wages are considered to be:

- (1) not more than two hundred eighty-five dollars (\$285); and
- (2) not less than seventy-five dollars (\$75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

**(c)** In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1988, and before July 1, 1989, the average weekly wages are considered to be:

- (1) not more than three hundred eighty-four dollars (\$384); and
- (2) not less than seventy-five dollars (\$75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

**(d)** In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1989, and before July 1, 1990, the average weekly wages are considered to be:

- (1) not more than four hundred eleven dollars (\$411); and
- (2) not less than seventy-five dollars (\$75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

**(e)** In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1990, and before July 1, 1991, the average weekly wages are considered to be:

- (1) not more than four hundred forty-one dollars (\$441); and
- (2) not less than seventy-five dollars (\$75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

**(f)** In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1991, and before July 1, 1992, the average weekly wages are considered to be:

- (1) not more than four hundred ninety-two dollars (\$492); and
- (2) not less than seventy-five dollars (\$75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

**(g)** In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1992, and before July 1, 1993, the average weekly wages are considered to be:

- (1) not more than five hundred forty dollars (\$540); and
- (2) not less than seventy-five dollars (\$75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

**(h)** In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1993, and before July 1, 1994, the average weekly wages are considered to be:

- (1) not more than five hundred ninety-one dollars (\$591); and
- (2) not less than seventy-five dollars (\$75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

**(i)** In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1994, and before July 1, 1997, the average weekly wages are considered to be:

- (1) not more than six hundred forty-two dollars (\$642); and
- (2) not less than seventy-five dollars (\$75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

**(b) (j)** In computing compensation for temporary total disability,

temporary partial disability, and total permanent disability, the average weekly wages are considered to be:

- (1) with respect to injuries occurring on and after July 1, 1997, and before July 1, 1998:

- (A) not more than six hundred seventy-two dollars (\$672); and
- (B) not less than seventy-five dollars (\$75);

- (2) with respect to injuries occurring on and after July 1, 1998, and before July 1, 1999:

- (A) not more than seven hundred two dollars (\$702); and
- (B) not less than seventy-five dollars (\$75);

- (3) with respect to injuries occurring on and after July 1, 1999, and before July 1, 2000:

- (A) not more than seven hundred thirty-two dollars (\$732); and
- (B) not less than seventy-five dollars (\$75);

- (4) with respect to injuries occurring on and after July 1, 2000, and before July 1, 2001:

- (A) not more than seven hundred sixty-two dollars (\$762); and
- (B) not less than seventy-five dollars (\$75);

- (5) with respect to injuries occurring on and after July 1, 2001, and before July 1, 2002:

- (A) not more than eight hundred twenty-two dollars (\$822); and
- (B) not less than seventy-five dollars (\$75); and

- (6) with respect to injuries occurring on and after July 1, 2002, and before July 1, 2006:

- (A) not more than eight hundred eighty-two dollars (\$882); and
- (B) not less than seventy-five dollars (\$75); and

- (7) with respect to injuries occurring on and after July 1, 2006:

- (A) not more than nine hundred fifty-four dollars (\$963); and
- (B) not less than seventy-five dollars (\$82).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

**(c)** For the purpose of this section only and with respect to injuries occurring on and after July 1, 1971, and prior to July 1, 1974, only, the term "dependent" as used in this section shall mean persons defined as presumptive dependents under section 19 of this chapter, except that such dependency shall be determined as of the date of the injury to the employee.

**(d)** With respect to any injury occurring on and after April 1, 1955, and prior to April 1, 1957, the maximum compensation exclusive of medical benefits, which shall be paid for an injury under any provisions of this law or under any combination of its provisions shall not exceed twelve thousand five hundred dollars (\$12,500) in any case. With respect to any injury occurring on and after April 1, 1957 and prior to April 1, 1963, the maximum compensation exclusive of medical benefits, which shall be paid for an injury under any provision of this law or under any combination of its provisions shall not exceed fifteen thousand dollars (\$15,000) in any case. With respect to any injury occurring on and after April 1, 1963, and prior to April 1, 1965, the maximum compensation exclusive of medical benefits, which shall be paid for an injury under any provision of this law or under any combination of its provisions shall not exceed sixteen thousand five hundred dollars (\$16,500) in any case. With respect to any injury occurring on and after April 1, 1965, and prior to April 1, 1967, the maximum compensation exclusive of medical benefits which shall be paid for any injury under any provision of this law or any combination of provisions shall not exceed twenty thousand dollars (\$20,000) in any case. With respect to any injury occurring on and after April 1, 1967, and prior to July 1, 1971, the maximum compensation exclusive of medical benefits which shall be paid for an injury under any provision of this law or any combination of provisions shall not exceed twenty-five thousand dollars (\$25,000) in any case. With respect to any injury occurring on and after July 1, 1971, and prior to July 1, 1974, the maximum compensation exclusive of medical benefits which shall be paid for any injury under any provision of this law or any combination of provisions shall not exceed thirty thousand dollars (\$30,000) in any case. With respect to

any injury occurring on and after July 1, 1974, and before July 1, 1976, the maximum compensation exclusive of medical benefits which shall be paid for an injury under any provision of this law or any combination of provisions shall not exceed forty-five thousand dollars (\$45,000) in any case. With respect to an injury occurring on and after July 1, 1976, and before July 1, 1977, the maximum compensation, exclusive of medical benefits, which shall be paid for any injury under any provision of this law or any combination of provisions shall not exceed fifty-two thousand dollars (\$52,000) in any case. With respect to any injury occurring on and after July 1, 1977, and before July 1, 1979, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provision of this law or any combination of provisions may not exceed sixty thousand dollars (\$60,000) in any case. With respect to any injury occurring on and after July 1, 1979, and before July 1, 1980, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed sixty-five thousand dollars (\$65,000) in any case. With respect to any injury occurring on and after July 1, 1980, and before July 1, 1983, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed seventy thousand dollars (\$70,000) in any case. With respect to any injury occurring on and after July 1, 1983, and before July 1, 1984, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed seventy-eight thousand dollars (\$78,000) in any case. With respect to any injury occurring on and after July 1, 1984, and before July 1, 1985, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed eighty-three thousand dollars (\$83,000) in any case.

(k) With respect to any injury occurring on and after July 1, 1985, and before July 1, 1986, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed eighty-nine thousand dollars (\$89,000) in any case.

(l) With respect to any injury occurring on and after July 1, 1986, and before July 1, 1988, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed ninety-five thousand dollars (\$95,000) in any case.

(m) With respect to any injury occurring on and after July 1, 1988, and before July 1, 1989, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred twenty-eight thousand dollars (\$128,000) in any case.

(n) With respect to any injury occurring on and after July 1, 1989, and before July 1, 1990, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred thirty-seven thousand dollars (\$137,000) in any case.

(o) With respect to any injury occurring on and after July 1, 1990, and before July 1, 1991, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred forty-seven thousand dollars (\$147,000) in any case.

(p) With respect to any injury occurring on and after July 1, 1991, and before July 1, 1992, the maximum compensation, exclusive of medical benefits, that may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred sixty-four thousand dollars (\$164,000) in any case.

(q) With respect to any injury occurring on and after July 1, 1992, and before July 1, 1993, the maximum compensation, exclusive of medical benefits, that may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred eighty thousand dollars (\$180,000) in any case.

(r) With respect to any injury occurring on and after July 1, 1993, and before July 1, 1994, the maximum compensation, exclusive of

medical benefits, that may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred ninety-seven thousand dollars (\$197,000) in any case.

(s) With respect to any injury occurring on and after July 1, 1994, and before July 1, 1997, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed two hundred fourteen thousand dollars (\$214,000) in any case.

(t) The maximum compensation, exclusive of medical benefits, that may be paid for an injury under any provision of this law or any combination of provisions may not exceed the following amounts in any case:

(1) With respect to an injury occurring on and after July 1, 1997, and before July 1, 1998, two hundred twenty-four thousand dollars (\$224,000).

(2) With respect to an injury occurring on and after July 1, 1998, and before July 1, 1999, two hundred thirty-four thousand dollars (\$234,000).

(3) With respect to an injury occurring on and after July 1, 1999, and before July 1, 2000, two hundred forty-four thousand dollars (\$244,000).

(4) With respect to an injury occurring on and after July 1, 2000, and before July 1, 2001, two hundred fifty-four thousand dollars (\$254,000).

(5) With respect to an injury occurring on and after July 1, 2001, and before July 1, 2002, two hundred seventy-four thousand dollars (\$274,000).

(6) With respect to an injury occurring on and after July 1, 2002, and before July 1, 2006, two hundred ninety-four thousand dollars (\$294,000).

(7) With respect to an injury occurring on and after July 1, 2006, three hundred eighteen thousand dollars (\$318,318).

SECTION 3. IC 22-3-7-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 16. (a) Compensation shall be allowed on account of disablement from occupational disease resulting in only temporary total disability to work or temporary partial disability to work beginning with the eighth day of such disability except for the medical benefits provided for in section 17 of this chapter. Compensation shall be allowed for the first seven (7) calendar days only as provided in this section. The first weekly installment of compensation for temporary disability is due fourteen (14) days after the disability begins. Not later than fifteen (15) days from the date that the first installment of compensation is due, the employer or the employer's insurance carrier shall tender to the employee or to the employee's dependents, with all compensation due, a properly prepared compensation agreement in a form prescribed by the board. Whenever an employer or the employer's insurance carrier denies or is not able to determine liability to pay compensation or benefits, the employer or the employer's insurance carrier shall notify the worker's compensation board and the employee in writing on a form prescribed by the worker's compensation board not later than thirty (30) days after the employer's knowledge of the claimed disablement. If a determination of liability cannot be made within thirty (30) days, the worker's compensation board may approve an additional thirty (30) days upon a written request of the employer or the employer's insurance carrier that sets forth the reasons that the determination could not be made within thirty (30) days and states the facts or circumstances that are necessary to determine liability within the additional thirty (30) days. More than thirty (30) days of additional time may be approved by the worker's compensation board upon the filing of a petition by the employer or the employer's insurance carrier that sets forth:

(1) the extraordinary circumstances that have precluded a determination of liability within the initial sixty (60) days;

(2) the status of the investigation on the date the petition is filed;

(3) the facts or circumstances that are necessary to make a determination; and

(4) a timetable for the completion of the remaining investigation.

An employer who fails to comply with this section is subject to a civil penalty of fifty dollars (\$50), to be assessed and collected by the board upon notice and hearing. Civil penalties collected under this section shall be deposited in the state general fund.

(b) Once begun, temporary total disability benefits may not be terminated by the employer unless:

- (1) the employee has returned to work;
- (2) the employee has died;
- (3) the employee has refused to undergo a medical examination under section 20 of this chapter;
- (4) the employee has received five hundred (500) weeks of temporary total disability benefits or has been paid the maximum compensation allowable under section 19 of this chapter; or
- (5) the employee is unable or unavailable to work for reasons unrelated to the compensable disease.

In all other cases the employer must notify the employee in writing of the employer's intent to terminate the payment of temporary total disability benefits, and of the availability of employment, if any, on a form approved by the board. If the employee disagrees with the proposed termination, the employee must give written notice of disagreement to the board and the employer within seven (7) days after receipt of the notice of intent to terminate benefits. If the board and employer do not receive a notice of disagreement under this section, the employee's temporary total disability benefits shall be terminated. Upon receipt of the notice of disagreement, the board shall immediately contact the parties, which may be by telephone or other means and attempt to resolve the disagreement. If the board is unable to resolve the disagreement within ten (10) days of receipt of the notice of disagreement, the board shall immediately arrange for an evaluation of the employee by an independent medical examiner. The independent medical examiner shall be selected by mutual agreement of the parties or, if the parties are unable to agree, appointed by the board under IC 22-3-4-11. If the independent medical examiner determines that the employee is no longer temporarily disabled or is still temporarily disabled but can return to employment that the employer has made available to the employee, or if the employee fails or refuses to appear for examination by the independent medical examiner, temporary total disability benefits may be terminated. If either party disagrees with the opinion of the independent medical examiner, the party shall apply to the board for a hearing under section 27 of this chapter.

(c) An employer is not required to continue the payment of temporary total disability benefits for more than fourteen (14) days after the employer's proposed termination date unless the independent medical examiner determines that the employee is temporarily disabled and unable to return to any employment that the employer has made available to the employee.

(d) If it is determined that as a result of this section temporary total disability benefits were overpaid, the overpayment shall be deducted from any benefits due the employee under this section and, if there are no benefits due the employee or the benefits due the employee do not equal the amount of the overpayment, the employee shall be responsible for paying any overpayment which cannot be deducted from benefits due the employee.

(e) For disablements occurring on and after April 1, 1951, and prior to July 1, 1971, from occupational disease resulting in temporary total disability for any work there shall be paid to the disabled employee during such temporary total disability a weekly compensation equal to sixty percent (60%) of the employee's average weekly wages for a period not to exceed five hundred (500) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-eight (28) days.

For disablements occurring on and after July 1, 1971, and prior to July 1, 1974, from occupational disease resulting in temporary total disability for any work there shall be paid to the disabled employee during such temporary total disability a weekly compensation equal to sixty percent (60%) of the employee's average weekly wages, as defined in section 19 of this chapter, for a period not to exceed five hundred (500) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-eight (28) days.

For disablements occurring on and after July 1, 1974, and before July 1, 1976, from occupational disease resulting in temporary total disability for any work there shall be paid to the disabled employee during such temporary total disability a weekly compensation equal to sixty-six and two-thirds percent (66 2/3%) of the employee's

average weekly wages; up to one hundred thirty-five dollars (\$135) average weekly wages, as defined in section 19 of this chapter, for a period not to exceed five hundred (500) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-one (21) days.

(e) For disablements occurring on and after July 1, 1976, from occupational disease resulting in temporary total disability for any work there shall be paid to the disabled employee during the temporary total disability weekly compensation equal to sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wages, as defined in section 19 of this chapter, for a period not to exceed five hundred (500) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-one (21) days.

(f) For disablements occurring on and after April 1, 1951, and prior to July 1, 1971, from occupational disease resulting in temporary partial disability for work there shall be paid to the disabled employee during such disability a weekly compensation equal to sixty percent (60%) of the difference between the employee's average weekly wages and the weekly wages at which the employee is actually employed after the disablement, for a period not to exceed three hundred (300) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-eight (28) days. In case of partial disability after the period of temporary total disability, the later period shall be included as part of the maximum period allowed for partial disability.

For disablements occurring on and after July 1, 1971, and prior to July 1, 1974, from occupational disease resulting in temporary partial disability for work there shall be paid to the disabled employee during such disability a weekly compensation equal to sixty percent (60%) of the difference between the employee's average weekly wages, as defined in section 19 of this chapter, and the weekly wages at which the employee is actually employed after the disablement, for a period not to exceed three hundred (300) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-eight (28) days. In case of partial disability after the period of temporary total disability, the latter period shall be included as a part of the maximum period allowed for partial disability.

(f) For disablements occurring on and after July 1, 1974, from occupational disease resulting in temporary partial disability for work there shall be paid to the disabled employee during such disability a weekly compensation equal to sixty-six and two-thirds percent (66 2/3%) of the difference between the employee's average weekly wages, as defined in section 19 of this chapter, and the weekly wages at which ~~he~~ **the employee** is actually employed after the disablement, for a period not to exceed three hundred (300) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-one (21) days. In case of partial disability after the period of temporary total disability, the latter period shall be included as a part of the maximum period allowed for partial disability.

(g) For disabilities occurring on and after April 1, 1951, and prior to April 1, 1955, from occupational disease in the following schedule, the employee shall receive in lieu of all other compensation, on account of such disabilities, a weekly compensation of sixty percent (60%) of the employee's average weekly wage; for disabilities occurring on and after April 1, 1955, and prior to July 1, 1971, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits not exceeding twenty-six (26) weeks on account of said occupational disease a weekly compensation of sixty percent (60%) of the employee's average weekly wages.

For disabilities occurring on and after July 1, 1971, and before July 1, 1977, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits not exceeding twenty-six (26) weeks on account of said occupational disease a weekly compensation of sixty percent (60%) of his average weekly wages not to exceed one hundred dollars (\$100) average weekly wages, for the period stated for such disabilities respectively.

For disabilities occurring on and after July 1, 1977, and before July 1, 1979, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits not exceeding twenty-six (26) weeks on account of the occupational disease a

weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred twenty-five dollars (\$125) average weekly wages, for the period stated for the disabilities:

(g) For disabilities occurring on and after July 1, 1979, and before July 1, 1988, from occupational disease in the following schedule set forth in subsection (j), the employee shall receive in addition to disability benefits, not exceeding fifty-two (52) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred twenty-five dollars (\$125) average weekly wages, for the period stated for the disabilities.

(h) For disabilities occurring on and after July 1, 1988, and before July 1, 1989, from occupational disease in the following schedule set forth in subsection (j), the employee shall receive in addition to disability benefits, not exceeding seventy-eight (78) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred sixty-six dollars (\$166) average weekly wages, for the period stated for the disabilities.

(i) For disabilities occurring on and after July 1, 1989, and before July 1, 1990, from occupational disease in the following schedule set forth in subsection (j), the employee shall receive in addition to disability benefits, not exceeding seventy-eight (78) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred eighty-three dollars (\$183) average weekly wages, for the period stated for the disabilities.

(j) For disabilities occurring on and after July 1, 1990, and before July 1, 1991, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits, not exceeding seventy-eight (78) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed two hundred dollars (\$200) average weekly wages, for the period stated for the disabilities.

(1) Amputations: For the loss by separation, of the thumb, sixty (60) weeks; of the index finger, forty (40) weeks; of the second finger, thirty-five (35) weeks; of the third or ring finger, thirty (30) weeks; of the fourth or little finger, twenty (20) weeks; of the hand by separation below the elbow, two hundred (200) weeks; of the arm above the elbow joint, two hundred fifty (250) weeks; of the big toe, sixty (60) weeks; of the second toe, thirty (30) weeks; of the third toe, twenty (20) weeks; of the fourth toe, fifteen (15) weeks; of the fifth or little toe, ten (10) weeks; of the foot below the knee joint, one hundred fifty (150) weeks; and of the leg above the knee joint, two hundred (200) weeks. The loss of more than one (1) phalange of a thumb or toe shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half ( $\frac{1}{2}$ ) of the thumb or toe and compensation shall be paid for one-half ( $\frac{1}{2}$ ) of the period for the loss of the entire thumb or toe. The loss of not more than two (2) phalanges of a finger shall be considered as the loss of one-half ( $\frac{1}{2}$ ) the finger and compensation shall be paid for one-half ( $\frac{1}{2}$ ) of the period for the loss of the entire finger.

(2) Loss of Use: The total permanent loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange shall be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange and the compensation shall be paid for the same period as for the loss thereof by separation.

(3) Partial Loss of Use: For the permanent partial loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange, compensation shall be paid for the proportionate loss of the use of such arm, hand, thumb, finger, leg, foot, toe, or phalange.

(4) For disablements for occupational disease resulting in total permanent disability, five hundred (500) weeks.

(5) For the loss of both hands, or both feet, or the total sight of both eyes, or any two (2) of such losses resulting from the same disablement by occupational disease, five hundred (500) weeks.

(6) For the permanent and complete loss of vision by enucleation of an eye or its reduction to one-tenth ( $\frac{1}{10}$ ) of normal vision with glasses, one hundred fifty (150) weeks, and for any other permanent reduction of the sight of an eye, compensation shall be paid for a period proportionate to the degree of such permanent reduction without correction or glasses. However, when such permanent reduction without correction or glasses would result in one hundred percent (100%) loss of vision, but correction or glasses would result in restoration of vision, then compensation shall be paid for fifty percent (50%) of such total loss of vision without glasses plus an additional amount equal to the proportionate amount of such reduction with glasses, not to exceed an additional fifty percent (50%).

(7) For the permanent and complete loss of hearing, two hundred (200) weeks.

(8) In all other cases of permanent partial impairment, compensation proportionate to the degree of such permanent partial impairment, in the discretion of the worker's compensation board, not exceeding five hundred (500) weeks.

(9) In all cases of permanent disfigurement, which may impair the future usefulness or opportunities of the employee, compensation in the discretion of the worker's compensation board, not exceeding two hundred (200) weeks, except that no compensation shall be payable under this paragraph where compensation shall be payable under subdivisions (1) through (8). Where compensation for temporary total disability has been paid, this amount of compensation shall be deducted from any compensation due for permanent disfigurement.

(k) With respect to disablements in the following schedule occurring on and after July 1, 1991, the employee shall receive in addition to temporary total disability benefits, not exceeding one hundred twenty-five (125) weeks on account of the disablement, compensation in an amount determined under the following schedule to be paid weekly at a rate of sixty-six and two-thirds percent ( $66\frac{2}{3}\%$ ) of the employee's average weekly wages during the fifty-two (52) weeks immediately preceding the week in which the disablement occurred:

(1) Amputation: For the loss by separation of the thumb, twelve (12) degrees of permanent impairment; of the index finger, eight (8) degrees of permanent impairment; of the second finger, seven (7) degrees of permanent impairment; of the third or ring finger, six (6) degrees of permanent impairment; of the fourth or little finger, four (4) degrees of permanent impairment; of the hand by separation below the elbow joint, forty (40) degrees of permanent impairment; of the arm above the elbow, fifty (50) degrees of permanent impairment; of the big toe, twelve (12) degrees of permanent impairment; of the second toe, six (6) degrees of permanent impairment; of the third toe, four (4) degrees of permanent impairment; of the fourth toe, three (3) degrees of permanent impairment; of the fifth or little toe, two (2) degrees of permanent impairment; of separation of the foot below the knee joint, thirty-five (35) degrees of permanent impairment; and of the leg above the knee joint, forty-five (45) degrees of permanent impairment.

(2) Amputations occurring on or after July 1, 1997: For the loss by separation of any of the body parts described in subdivision (1) on or after July 1, 1997, the dollar values per degree applying on the date of the injury as described in subsection (h) shall be multiplied by two (2). However, the doubling provision of this subdivision does not apply to a loss of use that is not a loss by separation.

(3) The loss of more than one (1) phalange of a thumb or toe shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half ( $\frac{1}{2}$ ) of the degrees of permanent impairment for the loss of the entire thumb or toe. The loss of not more than one (1) phalange of a finger shall be considered as the loss of one-third ( $\frac{1}{3}$ ) of the finger and compensation shall be paid for one-third ( $\frac{1}{3}$ ) of the degrees payable for the loss of the entire finger. The loss of more than one (1) phalange of the finger but

not more than two (2) phalanges of the finger shall be considered as the loss of one-half (½) of the finger and compensation shall be paid for one-half (½) of the degrees payable for the loss of the entire finger.

(4) For the loss by separation of both hands or both feet or the total sight of both eyes or any two (2) such losses in the same accident, one hundred (100) degrees of permanent impairment.

(5) For the permanent and complete loss of vision by enucleation or its reduction to one-tenth (1/10) of normal vision with glasses, thirty-five (35) degrees of permanent impairment.

(6) For the permanent and complete loss of hearing in one (1) ear, fifteen (15) degrees of permanent impairment, and in both ears, forty (40) degrees of permanent impairment.

(7) For the loss of one (1) testicle, ten (10) degrees of permanent impairment; for the loss of both testicles, thirty (30) degrees of permanent impairment.

(8) Loss of use: The total permanent loss of the use of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a phalange shall be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange, and compensation shall be paid in the same amount as for the loss by separation. However, the doubling provision of subdivision (2) does not apply to a loss of use that is not a loss by separation.

(9) Partial loss of use: For the permanent partial loss of the use of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a phalange, compensation shall be paid for the proportionate loss of the use of the arm, hand, thumb, finger, leg, foot, toe, or phalange.

(10) For disablements resulting in total permanent disability, the amount payable for impairment or five hundred (500) weeks of compensation, whichever is greater.

(11) For any permanent reduction of the sight of an eye less than a total loss as specified in subdivision (5), the compensation shall be paid in an amount proportionate to the degree of a permanent reduction without correction or glasses. However, when a permanent reduction without correction or glasses would result in one hundred percent (100%) loss of vision, then compensation shall be paid for fifty percent (50%) of the total loss of vision without glasses, plus an additional amount equal to the proportionate amount of the reduction with glasses, not to exceed an additional fifty percent (50%).

(12) For any permanent reduction of the hearing of one (1) or both ears, less than the total loss as specified in subdivision (6), compensation shall be paid in an amount proportionate to the degree of a permanent reduction.

(13) In all other cases of permanent partial impairment, compensation proportionate to the degree of a permanent partial impairment, in the discretion of the worker's compensation board, not exceeding one hundred (100) degrees of permanent impairment.

(14) In all cases of permanent disfigurement which may impair the future usefulness or opportunities of the employee, compensation, in the discretion of the worker's compensation board, not exceeding forty (40) degrees of permanent impairment except that no compensation shall be payable under this subdivision where compensation is payable elsewhere in this section.

~~(h)~~ **(I)** With respect to disablements occurring on and after July 1, 1991, compensation for permanent partial impairment shall be paid according to the degree of permanent impairment for the disablement determined under subsection ~~(h)~~ **(k)** and the following:

(1) With respect to disablements occurring on and after July 1, 1991, and before July 1, 1992, for each degree of permanent impairment from one (1) to thirty-five (35), five hundred dollars (\$500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), nine hundred dollars (\$900) per degree; for each degree of permanent impairment above fifty (50), one thousand five hundred dollars (\$1,500) per degree.

(2) With respect to disablements occurring on and after July 1, 1992, and before July 1, 1993, for each degree of permanent impairment from one (1) to twenty (20), five hundred dollars

(\$500) per degree; for each degree of permanent impairment from twenty-one (21) to thirty-five (35), eight hundred dollars (\$800) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand three hundred dollars (\$1,300) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(3) With respect to disablements occurring on and after July 1, 1993, and before July 1, 1997, for each degree of permanent impairment from one (1) to ten (10), five hundred dollars (\$500) per degree; for each degree of permanent impairment from eleven (11) to twenty (20), seven hundred dollars (\$700) per degree; for each degree of permanent impairment from twenty-one (21) to thirty-five (35), one thousand dollars (\$1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars (\$1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(4) With respect to disablements occurring on and after July 1, 1997, and before July 1, 1998, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars (\$750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars (\$1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars (\$1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(5) With respect to disablements occurring on and after July 1, 1998, and before July 1, 1999, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars (\$750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars (\$1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars (\$1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(6) With respect to disablements occurring on and after July 1, 1999, and before July 1, 2000, for each degree of permanent impairment from one (1) to ten (10), nine hundred dollars (\$900) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand one hundred dollars (\$1,100) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand six hundred dollars (\$1,600) per degree; for each degree of permanent impairment above fifty (50), two thousand dollars (\$2,000) per degree.

(7) With respect to disablements occurring on and after July 1, 2000, and before July 1, 2001, for each degree of permanent impairment from one (1) to ten (10), one thousand one hundred dollars (\$1,100) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand three hundred dollars (\$1,300) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand dollars (\$2,000) per degree; for each degree of permanent impairment above fifty (50), two thousand five hundred dollars (\$2,500) per degree.

(8) With respect to disablements occurring on and after July 1, 2001, **and before July 1, 2006**, for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred dollars (\$1,300) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand five hundred dollars (\$1,500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand four hundred dollars (\$2,400) per degree; for each degree of permanent impairment above fifty (50), three thousand dollars (\$3,000) per degree.

**(9) With respect to disablements occurring on and after July 1, 2006, for each degree of permanent impairment from one (1) to ten (10), one thousand five hundred dollars (\$1,515) per degree; for each degree of permanent impairment from**

**eleven (11) to thirty-five (35), one thousand seven hundred dollars (\$1,717) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand seven hundred dollars (\$2,727) per degree; for each degree of permanent impairment above fifty (50), three thousand three hundred dollars (\$3,333) per degree.**

(~~h~~) **(m)** The average weekly wages used in the determination of compensation for permanent partial impairment under subsections (~~g~~) (**k**) and (~~h~~) **(l)** shall not exceed the following:

- (1) With respect to disablements occurring on or after July 1, 1991, and before July 1, 1992, four hundred ninety-two dollars (\$492).
- (2) With respect to disablements occurring on or after July 1, 1992, and before July 1, 1993, five hundred forty dollars (\$540).
- (3) With respect to disablements occurring on or after July 1, 1993, and before July 1, 1994, five hundred ninety-one dollars (\$591).
- (4) With respect to disablements occurring on or after July 1, 1994, and before July 1, 1997, six hundred forty-two dollars (\$642).
- (5) With respect to disablements occurring on or after July 1, 1997, and before July 1, 1998, six hundred seventy-two dollars (\$672).
- (6) With respect to disablements occurring on or after July 1, 1998, and before July 1, 1999, seven hundred two dollars (\$702).
- (7) With respect to disablements occurring on or after July 1, 1999, and before July 1, 2000, seven hundred thirty-two dollars (\$732).
- (8) With respect to disablements occurring on or after July 1, 2000, and before July 1, 2001, seven hundred sixty-two dollars (\$762).
- (9) With respect to injuries occurring on or after July 1, 2001, and before July 1, 2002, eight hundred twenty-two dollars (\$822).
- (10) With respect to injuries occurring on or after July 1, 2002, **and before July 1, 2006**, eight hundred eighty-two dollars (\$882).

**(11) With respect to injuries occurring on or after July 1, 2006, nine hundred fifty-four dollars (\$963).**

(~~g~~) **(n)** If any employee, only partially disabled, refuses employment suitable to ~~his~~ **the employee's** capacity procured for ~~him~~; ~~he~~ **the employee**, ~~the employee~~ shall not be entitled to any compensation at any time during the continuance of such refusal unless, in the opinion of the worker's compensation board, such refusal was justifiable. The employee must be served with a notice setting forth the consequences of the refusal under this subsection. The notice must be in a form prescribed by the worker's compensation board.

(~~k~~) **(o)** If an employee has sustained a permanent impairment or disability from an accidental injury other than an occupational disease in another employment than that in which ~~he~~ **the employee** suffered a subsequent disability from an occupational disease, such as herein specified, the employee shall be entitled to compensation for the subsequent disability in the same amount as if the previous impairment or disability had not occurred. However, if the permanent impairment or disability resulting from an occupational disease for which compensation is claimed results only in the aggravation or increase of a previously sustained permanent impairment from an occupational disease or physical condition regardless of the source or cause of such previously sustained impairment from an occupational disease or physical condition, the board shall determine the extent of the previously sustained permanent impairment from an occupational disease or physical condition as well as the extent of the aggravation or increase resulting from the subsequent permanent impairment or disability, and shall award compensation only for that part of said occupational disease or physical condition resulting from the subsequent permanent impairment. An amputation of any part of the body or loss of any or all of the vision of one (1) or both eyes caused by an occupational disease shall be considered as a permanent impairment or physical condition.

(~~h~~) **(p)** If an employee suffers a disablement from occupational

disease for which compensation is payable while the employee is still receiving or entitled to compensation for a previous injury by accident or disability by occupational disease in the same employment, ~~he~~ **the employee** shall not at the same time be entitled to compensation for both, unless it be for a permanent injury, such as specified in subsection (~~g~~)(1); (~~g~~)(4); (~~g~~)(5); (~~g~~)(8); or (~~g~~)(9); (**k**)(1), (**k**)(4), (**k**)(5), (**k**)(8), or (**k**)(9), but the employee shall be entitled to compensation for that disability and from the time of that disability which will cover the longest period and the largest amount payable under this chapter.

(~~m~~) **(q)** If an employee receives a permanent disability from occupational disease such as specified in subsection (~~g~~)(1); (~~g~~)(4); (~~g~~)(5); (~~g~~)(8); or (~~g~~)(9) (**k**)(1), (**k**)(4), (**k**)(5), (**k**)(8), or (**k**)(9) after having sustained another such permanent disability in the same employment the employee shall be entitled to compensation for both such disabilities, but the total compensation shall be paid by extending the period and not by increasing the amount of weekly compensation and, when such previous and subsequent permanent disabilities, in combination result in total permanent disability or permanent total impairment, compensation shall be payable for such permanent total disability or impairment, but payments made for the previous disability or impairment shall be deducted from the total payment of compensation due.

(~~n~~) ~~When an employee has been awarded or is entitled to an award of compensation for a definite period under this chapter for disability from occupational disease, which disablement occurs on and after April 1, 1951, and prior to April 1, 1963, and such employee dies from any other cause than such occupational disease, payment of the unpaid balance of such compensation, not exceeding three hundred (300) weeks, shall be made to the employee's dependents of the second and third class as defined in sections 11 through 14 of this chapter, and compensation, not exceeding five hundred (500) weeks, shall be made to the employee's dependents of the first class as defined in sections 11 through 14 of this chapter.~~ **(r)** When an employee has been awarded or is entitled to an award of compensation for a definite period from an occupational disease wherein disablement occurs on and after April 1, 1963, and such employee dies from other causes than such occupational disease, payment of the unpaid balance of such compensation not exceeding three hundred fifty (350) weeks shall be paid to the employee's dependents of the second and third class as defined in sections 11 through 14 of this chapter and compensation, not exceeding five hundred (500) weeks shall be made to the employee's dependents of the first class as defined in sections 11 through 14 of this chapter.

(~~o~~) **(s)** Any payment made by the employer to the employee during the period of the employee's disability, or to the employee's dependents, which, by the terms of this chapter, was not due and payable when made, may, subject to the approval of the worker's compensation board, be deducted from the amount to be paid as compensation, but such deduction shall be made from the distal end of the period during which compensation must be paid, except in cases of temporary disability.

(~~p~~) **(t)** When so provided in the compensation agreement or in the award of the worker's compensation board, compensation may be paid semimonthly, or monthly, instead of weekly.

(~~q~~) **(u)** When the aggregate payments of compensation awarded by agreement or upon hearing to an employee or dependent under eighteen (18) years of age do not exceed one hundred dollars (\$100), the payment thereof may be made directly to such employee or dependent, except when the worker's compensation board shall order otherwise.

**(v)** Whenever the aggregate payments of compensation, due to any person under eighteen (18) years of age, exceed one hundred dollars (\$100), the payment thereof shall be made to a trustee, appointed by the circuit or superior court, or to a duly qualified guardian, or, upon the order of the worker's compensation board, to a parent or to such minor person. The payment of compensation, due to any person eighteen (18) years of age or over, may be made directly to such person.

(~~r~~) **(w)** If an employee, or a dependent, is mentally incompetent, or a minor at the time when any right or privilege accrues to the employee under this chapter, the employee's guardian or trustee may, in the employee's behalf, claim and exercise such right and privilege.

(s) (x) All compensation payments named and provided for in this section, shall mean and be defined to be for only such occupational diseases and disabilities therefrom as are proved by competent evidence, of which there are or have been objective conditions or symptoms proven, not within the physical or mental control of the employee. himself.

SECTION 4. IC 22-3-7-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 19. (a) ~~In computing compensation for temporary total disability, temporary partial disability, and total permanent disability under this law with respect to occupational diseases occurring:~~

(1) ~~on and after July 1, 1974, and before July 1, 1976; the average weekly wages shall be considered to be:~~

(A) ~~not more than one hundred thirty-five dollars (\$135); and~~

(B) ~~not less than seventy-five dollars (\$75);~~

(2) ~~on and after July 1, 1976; and before July 1, 1977; the average weekly wages shall be considered to be:~~

(A) ~~not more than one hundred fifty-six dollars (\$156); and~~

(B) ~~not less than seventy-five dollars (\$75);~~

(3) ~~on and after July 1, 1977; and before July 1, 1979; the average weekly wages are considered to be:~~

(A) ~~not more than one hundred eighty dollars (\$180); and~~

(B) ~~not less than seventy-five dollars (\$75);~~

(4) ~~on and after July 1, 1979; and before July 1, 1980; the average weekly wages are considered to be:~~

(A) ~~not more than one hundred ninety-five dollars (\$195);~~

and

(B) ~~not less than seventy-five dollars (\$75);~~

(5) ~~on and after July 1, 1980; and before July 1, 1983; the average weekly wages are considered to be:~~

(A) ~~not more than two hundred ten dollars (\$210); and~~

(B) ~~not less than seventy-five dollars (\$75);~~

(6) ~~on and after July 1, 1983; and before July 1, 1984; the average weekly wages are considered to be:~~

(A) ~~not more than two hundred thirty-four dollars (\$234);~~

and

(B) ~~not less than seventy-five dollars (\$75); and~~

(7) ~~on and after July 1, 1984; and before July 1, 1985; the average weekly wages are considered to be:~~

(A) ~~not more than two hundred forty-nine dollars (\$249); and~~

(B) ~~not less than seventy-five dollars (\$75).~~

(b) (a) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1985, and before July 1, 1986, the average weekly wages are considered to be:

(1) not more than two hundred sixty-seven dollars (\$267); and

(2) not less than seventy-five dollars (\$75).

(c) (b) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1986, and before July 1, 1988, the average weekly wages are considered to be:

(1) not more than two hundred eighty-five dollars (\$285); and

(2) not less than seventy-five dollars (\$75).

(d) (c) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1988, and before July 1, 1989, the average weekly wages are considered to be:

(1) not more than three hundred eighty-four dollars (\$384); and

(2) not less than seventy-five dollars (\$75).

(e) (d) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1989, and before July 1, 1990, the average weekly wages are considered to be:

(1) not more than four hundred eleven dollars (\$411); and

(2) not less than seventy-five dollars (\$75).

(f) (e) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1990, and before July 1, 1991, the average weekly wages are considered to

be:

(1) not more than four hundred forty-one dollars (\$441); and

(2) not less than seventy-five dollars (\$75).

(g) (f) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1991, and before July 1, 1992, the average weekly wages are considered to be:

(1) not more than four hundred ninety-two dollars (\$492); and

(2) not less than seventy-five dollars (\$75).

(h) (g) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1992, and before July 1, 1993, the average weekly wages are considered to be:

(1) not more than five hundred forty dollars (\$540); and

(2) not less than seventy-five dollars (\$75).

(i) (h) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1993, and before July 1, 1994, the average weekly wages are considered to be:

(1) not more than five hundred ninety-one dollars (\$591); and

(2) not less than seventy-five dollars (\$75).

(j) (i) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1994, and before July 1, 1997, the average weekly wages are considered to be:

(1) not more than six hundred forty-two dollars (\$642); and

(2) not less than seventy-five dollars (\$75).

(k) (j) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, the average weekly wages are considered to be:

(1) with respect to occupational diseases occurring on and after July 1, 1997, and before July 1, 1998:

(A) not more than six hundred seventy-two dollars (\$672); and

(B) not less than seventy-five dollars (\$75);

(2) with respect to occupational diseases occurring on and after July 1, 1998, and before July 1, 1999:

(A) not more than seven hundred two dollars (\$702); and

(B) not less than seventy-five dollars (\$75);

(3) with respect to occupational diseases occurring on and after July 1, 1999, and before July 1, 2000:

(A) not more than seven hundred thirty-two dollars (\$732); and

(B) not less than seventy-five dollars (\$75);

(4) with respect to occupational diseases occurring on and after July 1, 2000, and before July 1, 2001:

(A) not more than seven hundred sixty-two dollars (\$762); and

(B) not less than seventy-five dollars (\$75);

(5) with respect to disablements occurring on and after July 1, 2001, and before July 1, 2002:

(A) not more than eight hundred twenty-two dollars (\$822); and

(B) not less than seventy-five dollars (\$75); and

(6) with respect to disablements occurring on and after July 1, 2002, and before July 1, 2006:

(A) not more than eight hundred eighty-two dollars (\$882); and

(B) not less than seventy-five dollars (\$75); and

(7) with respect to disablements occurring on and after July 1, 2006:

(A) not more than nine hundred fifty-four dollars (\$963); and

(B) not less than seventy-five dollars (\$82).

(l) The maximum compensation that shall be paid for occupational disease and its results under any one (1) or more provisions of this chapter with respect to disability or death occurring:

(1) on and after July 1, 1974; and before July 1, 1976; shall not exceed forty-five thousand dollars (\$45,000) in any case;

- (2) on and after July 1, 1976, and before July 1, 1977, shall not exceed fifty-two thousand dollars (\$52,000) in any case;
- (3) on and after July 1, 1977, and before July 1, 1979, may not exceed sixty thousand dollars (\$60,000) in any case;
- (4) on and after July 1, 1979, and before July 1, 1980, may not exceed sixty-five thousand dollars (\$65,000) in any case;
- (5) on and after July 1, 1980, and before July 1, 1983, may not exceed seventy thousand dollars (\$70,000) in any case;
- (6) on and after July 1, 1983, and before July 1, 1984, may not exceed seventy-eight thousand dollars (\$78,000) in any case; and
- (7) on and after July 1, 1984, and before July 1, 1985, may not exceed eighty-three thousand dollars (\$83,000) in any case.

(m) (k) The maximum compensation with respect to disability or death occurring on and after July 1, 1985, and before July 1, 1986, which shall be paid for occupational disease and the results thereof under the provisions of this chapter or under any combination of its provisions may not exceed eighty-nine thousand dollars (\$89,000) in any case.

(l) The maximum compensation with respect to disability or death occurring on and after July 1, 1986, and before July 1, 1988, which shall be paid for occupational disease and the results thereof under the provisions of this chapter or under any combination of its provisions may not exceed ninety-five thousand dollars (\$95,000) in any case.

(m) The maximum compensation with respect to disability or death occurring on and after July 1, 1988, and before July 1, 1989, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of its provisions may not exceed one hundred twenty-eight thousand dollars (\$128,000) in any case.

(n) The maximum compensation with respect to disability or death occurring on and after July 1, 1989, and before July 1, 1990, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of its provisions may not exceed one hundred thirty-seven thousand dollars (\$137,000) in any case.

(o) The maximum compensation with respect to disability or death occurring on and after July 1, 1990, and before July 1, 1991, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of its provisions may not exceed one hundred forty-seven thousand dollars (\$147,000) in any case.

(p) The maximum compensation with respect to disability or death occurring on and after July 1, 1991, and before July 1, 1992, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of the provisions of this chapter may not exceed one hundred sixty-four thousand dollars (\$164,000) in any case.

(q) The maximum compensation with respect to disability or death occurring on and after July 1, 1992, and before July 1, 1993, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of the provisions of this chapter may not exceed one hundred eighty thousand dollars (\$180,000) in any case.

(r) The maximum compensation with respect to disability or death occurring on and after July 1, 1993, and before July 1, 1994, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of the provisions of this chapter may not exceed one hundred ninety-seven thousand dollars (\$197,000) in any case.

(s) The maximum compensation with respect to disability or death occurring on and after July 1, 1994, and before July 1, 1997, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of the provisions of this chapter may not exceed two hundred fourteen thousand dollars (\$214,000) in any case.

(t) The maximum compensation that shall be paid for occupational disease and the results of an occupational disease under this chapter or under any combination of the provisions of this chapter may not exceed the following amounts in any case:

- (1) With respect to disability or death occurring on and after July 1, 1997, and before July 1, 1998, two hundred twenty-four thousand dollars (\$224,000).
- (2) With respect to disability or death occurring on and after July 1, 1998, and before July 1, 1999, two hundred thirty-four thousand dollars (\$234,000).

(3) With respect to disability or death occurring on and after July 1, 1999, and before July 1, 2000, two hundred forty-four thousand dollars (\$244,000).

(4) With respect to disability or death occurring on and after July 1, 2000, and before July 1, 2001, two hundred fifty-four thousand dollars (\$254,000).

(5) With respect to disability or death occurring on and after July 1, 2001, and before July 1, 2002, two hundred seventy-four thousand dollars (\$274,000).

(6) With respect to disability or death occurring on and after July 1, 2002, and before July 1, 2006, two hundred ninety-four thousand dollars (\$294,000).

**(7) With respect to disability or death occurring on and after July 1, 2006, three hundred eighteen thousand dollars (\$318,318).**

(u) For all disabilities occurring before July 1, 1985, "average weekly wages" shall mean the earnings of the injured employee in the employment in which the employee was working at the time of the last exposure during the period of fifty-two (52) weeks immediately preceding the last day of the last exposure divided by fifty-two (52). If the employee lost seven (7) or more calendar days during the period, although not in the same week, then the earnings for the remainder of the fifty-two (52) weeks shall be divided by the number of weeks and parts thereof remaining after the time lost has been deducted. Where the employment prior to the last day of the last exposure extended over a period of less than fifty-two (52) weeks, the method of dividing the earnings during that period by the number of weeks and parts thereof during which the employee earned wages shall be followed if results just and fair to both parties will be obtained. Where by reason of the shortness of the time during which the employee has been in the employment of the employer or of the casual nature or terms of the employment it is impracticable to compute the average weekly wages as above defined, regard shall be had to the average weekly amount which, during the fifty-two (52) weeks previous to the last day of the last exposure, was being earned by a person in the same grade employed at the same work by the same employer; or if there is no person so employed, by a person in the same grade employed in that same class of employment in the same district. Whenever allowances of any character are made to an employee in lieu of wages or a specified part of the wage contract, they shall be deemed a part of the employee's earnings.

(v) (u) For all disabilities occurring on and after July 1, 1985, "average weekly wages" means the earnings of the injured employee during the period of fifty-two (52) weeks immediately preceding the disability divided by fifty-two (52). If the employee lost seven (7) or more calendar days during the period, although not in the same week, then the earnings for the remainder of the fifty-two (52) weeks shall be divided by the number of weeks and parts of weeks remaining after the time lost has been deducted. If employment before the date of disability extended over a period of less than fifty-two (52) weeks, the method of dividing the earnings during that period by the number of weeks and parts of weeks during which the employee earned wages shall be followed if results just and fair to both parties will be obtained. If by reason of the shortness of the time during which the employee has been in the employment of the employer or of the casual nature or terms of the employment it is impracticable to compute the average weekly wages for the employee, the employee's average weekly wages shall be considered to be the average weekly amount that, during the fifty-two (52) weeks before the date of disability, was being earned by a person in the same grade employed at the same work by the same employer or, if there is no person so employed, by a person in the same grade employed in that same class of employment in the same district. Whenever allowances of any character are made to an employee instead of wages or a specified part of the wage contract, they shall be considered a part of the employee's earnings.

(w) (v) The provisions of this article may not be construed to result in an award of benefits in which the number of weeks paid or to be paid for temporary total disability, temporary partial disability, or permanent total disability benefits combined exceeds five hundred (500) weeks. This section shall not be construed to prevent a person from applying for an award under IC 22-3-3-13. However, in case of permanent total disability resulting from a disablement occurring on

or after January 1, 1998, the minimum total benefit shall not be less than seventy-five thousand dollars (\$75,000)."

Delete pages 17 through 60.

Page 61, delete lines 1 through 31.

Renumber all SECTIONS consecutively.

(Reference is to HB 1307 as printed January 20, 2006.)

STILWELL

Upon request of Representatives Stilwell and Bauer, the Speaker ordered the roll of the House to be called. Roll Call 34: yeas 48, nays 49. Motion failed. The bill was ordered engrossed.

### House Bill 1280

Representative Murphy called down House Bill 1280 for second reading. The bill was read a second time by title.

HOUSE MOTION  
(Amendment 1280-1)

Mr. Speaker: I move that House Bill 1280 be amended to read as follows:

Page 8, line 21, delete "or a person that receives an unsolicited".

Page 8, line 22, delete "facsimile advertisement".

Page 8, line 29, delete "either:".

Page 8, delete lines 30 through 32.

Page 8, line 33, delete "(B) for any other willful deceptive act,".

Page 8, run in lines 29 and 33.

(Reference is to HB 1280 as printed January 20, 2006.)

MURPHY

Motion prevailed. The bill was ordered engrossed.

### House Bill 1209

Representative Turner called down House Bill 1209 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

### House Bill 1142

Representative Leonard called down House Bill 1142 for second reading. The bill was read a second time by title.

HOUSE MOTION  
(Amendment 1142-3)

Mr. Speaker: I move that House Bill 1142 be amended to read as follows:

Page 1, delete lines 1 through 17.

Delete page 2.

Page 3, delete lines 1 through 11.

Page 3, line 13, after "Sec. 3." insert "(a)".

Page 3, line 16, delete ":".

Page 3, delete lines 17 through 18.

Page 3, line 19, delete "(2)".

Page 3, run in lines 16 and 19.

Page 3, delete lines 21 through 42, begin a new paragraph and insert:

**"(b) The department shall bill and collect the skills 2016 training assessment determined under subsection (a) from each employer obligated to pay the assessment at the same time and in the same manner as contributions to the unemployment insurance benefit fund established by IC 22-4-26-1 are billed to and collected from the employer."**

Page 4, delete lines 1 through 10.

Renumber all SECTIONS consecutively.

(Reference is to HB 1142 as printed January 18, 2006.)

STILWELL

Upon request of Representatives Stilwell and Fry, the Speaker ordered the roll of the House to be called. Roll Call 35: yeas 47, nays 49. Motion failed. The bill was ordered engrossed.

### House Bill 1102

Representative Ayres called down House Bill 1102 for second reading. The bill was read a second time by title.

HOUSE MOTION  
(Amendment 1102-9)

Mr. Speaker: I move that House Bill 1102 be amended to read as

follows:

Page 6, between lines 35 and 36, begin a new paragraph and insert:  
"SECTION 5. IC 5-11-13-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. Every state, county, city, town, township, or school official, elective or appointive, who is the head of or in charge of any office, department, board, or commission of the state or of any county, city, town, or township, and every state, county, city, town, or township employee or agent who is the head of, or in charge of, or the executive officer of any department, bureau, board, or commission of the state, county, city, town, or township, and every executive officer by whatever title designated, who is in charge of any state educational institution or of any other state, county, or city institution, shall during the month of January of each year prepare, make, and sign a written or printed certified report, correctly and completely showing the names and **business** addresses of each and all officers, employees, and agents in their respective offices, departments, boards, commissions, and institutions, and the respective duties and compensation of each, and shall forthwith file said report in the office of the state examiner of the state board of accounts. However, no more than one (1) report covering the same officers, employees, and agents need be made from the state or any county, city, town, township, or school unit in any one year."

Page 12, line 6, after "(j)" insert ",".

Page 12, line 6, strike "and".

Page 12, line 6, after "(k)," insert "**and (l)**,".

Page 12, line 37, strike "one (1) week" and insert "**two (2) weeks**".

Page 12, line 39, after "office" insert ",".

Page 12, line 39, strike "specifying".

Page 12, line 40, strike "how to make the required reductions in the amount budgeted by fund." and insert "**The response may include budget reductions, reallocation of levies, a revision in the amount of miscellaneous revenues, and further review of any other item about which, in the view of the political subdivision, the department is in error.**".

Page 12, line 41, strike "reductions" and insert "**the adjustments**".

Page 13, line 1, after "subsection" insert ",".

Page 13, line 1, strike "and sufficiently specifies all".

Page 13, strike lines 2 through 4.

Page 14, between lines 23 and 24, begin a new paragraph and insert:

**"(l) This subsection does not apply to a school corporation. If a petition is not filed with:**

**(1) the proper officers of a political subdivision in accordance with section 5 of this chapter; or**

**(2) the county auditor in accordance with section 13 of this chapter;**

**the department of local government finance may not conduct a public hearing under subsection (c) and must limit its review of the political subdivision's budget, tax rate, and levy to a determination as to whether the political subdivision's proposed property tax levy for the ensuing year complies with IC 6-1.1-18.5-3."**

Page 14, strike lines 37 through 42.

Page 15, strike lines 1 through 42.

Page 16, strike lines 1 through 3.

Page 16, between lines 3 and 4, begin a new paragraph and insert:

**"(b) After the public hearing, the proper officers of the political subdivision shall file a certified copy of their final proposal and any other relevant information with the department of local government finance.**

**(c) The additional appropriation may not have the effect of increasing the approved tax rate or levy and must be supported by sufficient revenues on hand or unobligated revenues, as certified by the fiscal officer.**

**(d) The additional appropriation must be treated as approved following the adoption of the ordinance or resolution making the appropriation.**

SECTION 12. IC 6-1.1-18-6.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6.1. (a) The proper officers of a political subdivision may transfer money from one (1) of the political subdivision's funds to another fund of the political**

subdivision after the adoption of an ordinance or resolution specifying the:

- (1) amount of the transfer;
- (2) funds involved;
- (3) date of the transfer; and
- (4) general purpose of the transfer.

(b) The political subdivision shall publish a notice of a transfer made under this section one (1) time in conformity with IC 5-3-1.

(c) The amount transferred is available for use after an appropriation of the funds in conformity with section 5 of this chapter.

SECTION 13. IC 6-1.1-18.5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The ad valorem property tax levy limits imposed by section 3 of this chapter do not apply to ad valorem property taxes imposed by a civil taxing unit if the civil taxing unit is committed to levy the taxes to pay or fund either:

- (1) bonded indebtedness; or
- (2) lease rentals under a lease with an original term of at least five (5) years.

(b) A civil taxing unit must file a petition requesting approval from the department of local government finance to incur bonded indebtedness or execute a lease with an original term of at least five (5) years not later than twenty-four (24) months after the first date of publication of notice of a preliminary determination under IC 6-1.1-20-3.1(2), unless the civil taxing unit demonstrates that a longer period is reasonable in light of the civil taxing unit's facts and circumstances. **In addition to any publication requirements, a civil taxing unit other than a county, first class city, or second class city must post a printed notice of the petition in three (3) prominent places in the civil taxing unit.** A civil taxing unit must obtain approval from the department of local government finance before the civil taxing unit may:

- (1) incur the bonded indebtedness; or
- (2) enter into the lease.

**Except as provided in subsection (g),** the department of local government finance may seek recommendations from the local government tax control board established by section 11 of this chapter when determining whether to authorize incurring the bonded indebtedness or the execution of the lease.

(c) The department of local government finance shall render a decision within three (3) months after the date it receives a request for approval under subsection (b). However, the department of local government finance may extend this three (3) month period by an additional three (3) months if, at least ten (10) days before the end of the original three (3) month period, the department sends notice of the extension to the executive officer of the civil taxing unit. A civil taxing unit may petition for judicial review of the final determination of the department of local government finance under this section. The petition must be filed in the tax court not more than forty-five (45) days after the department enters its order under this section.

(d) A civil taxing unit does not need approval under subsection (b) to obtain temporary loans made in anticipation of and to be paid from current revenues of the civil taxing unit actually levied and in the course of collection for the fiscal year in which the loans are made.

(e) For purposes of computing the ad valorem property tax levy limits imposed on a civil taxing unit by section 3 of this chapter, the civil taxing unit's ad valorem property tax levy for a calendar year does not include that part of its levy that is committed to fund or pay bond indebtedness or lease rentals with an original term of five (5) years in subsection (a).

(f) A taxpayer may petition for judicial review of the final determination of the department of local government finance under this section. The petition must be filed in the tax court not more than thirty (30) days after the department enters its order under this section.

**(g) The department of local government finance may not consult the local government tax control board when determining whether to authorize incurring the bonded indebtedness or the execution of the lease if:**

- (1) a sufficient petition objecting to the bond issue or the lease was not filed in accordance with IC 6-1.1-20-5; or
- (2) with respect to a controlled project (as defined in

**IC 6-1.1-20-1.1):**

**(A) a sufficient petition requesting the application of a petition and remonstrance process was not filed in accordance with IC 6-1.1-20-3.1; or**

**(B) the certificate filed with the political subdivision by the county auditor under IC 6-1.1-20-3.2(5) states that a greater number of owners of real property within the political subdivision have signed a petition than have signed a remonstrance with respect to the controlled project."**

Page 22, between lines 5 and 6, begin a new paragraph and insert: "SECTION 20. IC 8-14-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) All funds allocated to cities and towns from the motor vehicle highway account shall be used by the cities and towns for the:

**(1) engineering, land acquisition,** construction, reconstruction, repair, maintenance, oiling, sprinkling, snow removal, weed and tree cutting, and cleaning of their highways, ~~as herein defined, and including also any curbs; and the~~

**(2) city's or town's share of the cost of the separation of the grades of crossing of public highways and railroads; the**

**(3) purchase or lease of highway construction and maintenance equipment; the**

**(4) purchase, erection, operation and maintenance of traffic signs and signals, and safety zones and devices; and the**

**(5) painting of structures, objects, and surfaces in highways for purposes of safety and traffic regulation.**

All of ~~such~~ the funds shall be budgeted as provided by law.

(b) In addition to purposes for which funds may be expended under subsections (a) and (c) of this section, monies allocated to cities and towns under this chapter may be expended for law enforcement purposes, subject to the following limitations:

(1) For cities and towns with a population of less than five thousand (5,000), no more than fifteen percent (15%) may be spent for law enforcement purposes.

(2) For cities and towns other than those specified in subdivision (1) of this subsection, no more than ten percent (10%) may be spent for law enforcement purposes.

(c) In addition to purposes for which funds may be expended under subsections (a) and (b) of this section, monies allocated to cities and towns under this chapter may be expended for the payment of principal and interest on bonds sold primarily to finance road, street, or thoroughfare projects **and for the payment of the indirect costs associated with municipal street departments.**

**(d) A city or town may combine funds allocated under this chapter with funds allocated under IC 8-14-2.**

SECTION 21. IC 8-14-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Money from the local road and street account shall be used exclusively by the cities, towns, and counties for:

(1) engineering, land acquisition, construction, resurfacing, maintenance, restoration, or rehabilitation of both local and arterial road and street systems;

(2) the payment of principal and interest on bonds sold primarily to finance road, street, or thoroughfare projects;

(3) any local costs required to undertake a recreational or reservoir road project under IC 8-23-5; or

(4) the purchase, rental, or repair of highway equipment.

**(b) In addition to the purposes specified in subsection (a), cities, towns, and counties may use money from the local road and street account for:**

**(1) oiling, sprinkling, snow removal, weed and tree cutting, and cleaning of their highways, including any curbs;**

**(2) the city's or town's share of the cost of the separation of the grades of crossing of public highways and railroads;**

**(3) the purchase, erection, operation, and maintenance of traffic signs and signals, and safety zones and devices; and**

**(4) the painting of structures, objects, and surfaces in highways for purposes of safety and traffic regulation.**

**(c) A city or town may combine funds allocated under this chapter with funds allocated under IC 8-14-1."**

Page 22, between lines 31 and 32, begin a new paragraph and insert:

"SECTION 23. IC 12-19-7-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 32. The serial bonds issued under section 31 of this chapter:

- (1) may be of any denomination that is:
  - (A) not less than fifty dollars (\$50); and
  - (B) not more than one thousand dollars (\$1,000);
- (2) shall be payable:
  - (A) at any place named on the serial bonds; and
  - (B) at any time not later than fifteen (15) years after the date of the serial bonds;
- (3) may bear any rate of interest, payable annually or semiannually;
- (4) shall be sold at not less than the par value of the bonds; and
- (5) shall be sold in the manner provided for the sale of bonds issued under IC 12-20-23 (**before its repeal**).

SECTION 24. IC 12-19-7.5-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 31. The serial bonds issued under section 30 of this chapter:

- (1) may be of any denomination that is:
  - (A) not less than fifty dollars (\$50); and
  - (B) not more than one thousand dollars (\$1,000);
- (2) shall be payable:
  - (A) at any place named on the serial bonds; and
  - (B) at any time not later than fifteen (15) years after the date of the serial bonds;
- (3) may bear any rate of interest, payable annually or semiannually;
- (4) shall be sold at not less than the par value of the bonds; and
- (5) shall be sold in the manner provided for the sale of bonds issued under IC 12-20-23 (**before its repeal**).

SECTION 25. IC 12-20-21-2, AS AMENDED BY P.L.73-2005, SECTION 94, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. ~~Money raised by tax levies made specifically for township assistance purposes; either by a county or township; may not be considered as a part of and may not be commingled with other money of the county. Township assistance money raised by townships may not be commingled. except for the money resulting from levies made by the townships for reimbursement of the counties for advancements from the general fund.~~

SECTION 26. IC 12-20-24-1, AS AMENDED BY P.L.73-2005, SECTION 108, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) In addition to the other methods of township assistance financing provided by this article, if a township trustee for a township determines that a particular township's township assistance account will be exhausted before the end of a fiscal year, the township trustee shall notify the township board of that determination.

(b) After receiving notice under subsection (a) that a township's township assistance account will be exhausted before the end of a fiscal year, the township board shall appeal **to the department of local government finance** for the right to borrow money on a short term basis to fund township assistance services in the township. In the appeal the township board must do the following:

- (1) Show that the amount of money contained in the township assistance account will not be sufficient to fund services required to be provided within the township by this article.
- (2) Show the amount of money that the board estimates will be needed to fund the deficit.
- (3) Indicate a period, not to exceed five (5) years, during which the township would repay the loan.

SECTION 27. IC 12-20-24-5, AS AMENDED BY P.L.73-2005, SECTION 111, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) If upon appeal under ~~section 4~~ **section 1** of this chapter the department determines that a township board should be allowed to borrow money under this chapter, the department shall order the township trustee to borrow the money from a financial institution on behalf of the township board and to deposit the money borrowed in the township's township assistance account.

(b) If upon appeal under ~~section 4~~ **section 1** of this chapter the department determines that the township board should not be allowed to borrow money, the board may not do so for that year.

SECTION 28. IC 12-20-24-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. If a loan is approved under IC 12-2-4.5 (before its repeal) or this chapter, the board of commissioners **or** county council (**for a loan approved by the board of commissioners or county council before July 1, 2006**) or the department shall determine the period during which the township shall repay the loan. However, the period may not exceed five (5) years.

SECTION 29. IC 12-20-24-7, AS AMENDED BY P.L.73-2005, SECTION 112, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. A board of commissioners **or** a county council (**for a loan approved by the board of commissioners or county council before July 1, 2006**) or the department may not do any of the following:

- (1) Approve a request to borrow money made under IC 12-2-4.5 (before its repeal) or this chapter unless the body determines that the township's township assistance account will be exhausted before the account can fund all township obligations incurred under this article.
- (2) Recommend or approve a loan that will exceed the estimated amount of the deficit.

SECTION 30. IC 12-20-24-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) If a township board:

- (1) appeals before August 1 for permission to borrow money;
- (2) receives permission from:
  - (A) the board of commissioners **or** the county council, **before July 1, 2006**; or
  - (B) the department;
 to borrow money before November 1 of that year; and
- (3) borrows money under this chapter;

the township board shall levy a property tax beginning in the next succeeding year and continuing for the term of the loan in an amount each year that will be sufficient to pay the principal and interest due on the loan for the year.

- (b) If a township board:
  - (1) appeals after August 1 for permission to borrow money;
  - (2) receives permission from:
    - (A) the board of commissioners **or** the county council, **before July 1, 2006**; or
    - (B) the department;
 to borrow money; and
  - (3) borrows money in the year of the appeal under this chapter;

the township board shall levy a property tax beginning in the second succeeding year and continuing for the term of the loan in an amount each year that will be sufficient to pay the principal and interest due on the loan for the year.

(c) The property taxes levied under this section shall be retained by the township trustee and applied by the township trustee to retire the debt.

SECTION 31. IC 12-20-25-30, AS AMENDED BY P.L.73-2005, SECTION 131, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 30. (a) The control board shall supervise the township trustee in the administration of township assistance. The control board may appoint one (1) of the board's members to monitor the trustee's compliance with this chapter and to report discrepancies to the control board. The control board may require the board's approval of an expenditure of more than five hundred dollars (\$500).

(b) Notwithstanding IC 36-6-6-11, the control board shall review and may reduce or increase the township's budget and proposed tax levy to be advertised by the county auditor. If the control board finds that there will be insufficient revenues available under this chapter for the township to pay valid township assistance claims, the control board may consent to proposed borrowing for township assistance under ~~IC 12-20-23~~ **or** IC 12-20-24.

(c) The control board may approve the number, pay, and duties of employees who are employed for the distribution and administration of the distressed township's township assistance program.

(d) The control board may require the township trustee to submit reports on the amounts of township assistance by categories, including the types of goods or services furnished and the vendors who supplied the goods or services.

## (e) The control board:

(1) shall operate the employment program implemented by the management committee under section 15(a)(5) of this chapter; and

(2) may require that a township assistance recipient participate in a training program under IC 12-20-12-1.

(f) The control board shall establish income eligibility standards for township assistance, subject to the requirements of section 18 of this chapter.

SECTION 32. IC 12-20-25-40, AS AMENDED BY P.L.73-2005, SECTION 138, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 40. The county treasurer shall deposit the disbursements from the treasurer of state in a county fund to be known as the county income tax township assistance control fund. Notwithstanding IC 6-3.5-1.1, IC 6-3.5-6, and IC 6-1.1-18.5, the county treasurer shall disburse the money in the fund in the following priority:

(1) To ensure the payment within thirty (30) days of all valid township assistance claims in the distressed township that are not covered by subdivision (3).

(2) At the end of each calendar year, to redeem any outstanding bonds issued or repay loans incurred by the county for poor relief or township assistance purposes under IC 12-2-4.5 (before its repeal), IC 12-2-5 (before its repeal), IC 12-20-23 (**before its repeal**), or IC 12-20-24 to the extent the proceeds of the bonds or loans were advanced to the distressed township.

(3) To pay claims approved under section 27 or 28 of this chapter (or IC 12-2-14-22 or IC 12-2-14-23 before their repeal).

(4) As provided in IC 6-3.5-6 if the county option income tax is imposed under this chapter. If the county adjusted gross income tax is imposed under this chapter, to provide property tax replacement credits for each civil taxing unit and school corporation in the county as provided in IC 6-3.5-1.1. No part of the county adjusted gross income tax revenue is considered a certified share of a governmental unit as provided in IC 6-3.5-1.1-15. In addition, the county adjusted gross income tax revenue (except for the county adjusted gross income tax revenues that are to be treated as property tax replacements under this subdivision) is in addition to and not a part of the revenue of the township for purposes of determining the township's maximum permissible property tax levy under IC 6-1.1-18.5.

SECTION 33. IC 12-20-25-42, AS AMENDED BY P.L.73-2005, SECTION 140, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 42. (a) This section applies to a township that was certified a distressed township before January 1, 1988.

(b) The controlled status of the distressed township is terminated on July 1, 1989, if the department finds that the following conditions exist:

(1) All valid township assistance claims in the distressed township, including the claims approved under IC 12-2-14-22 (before its repeal), IC 12-2-14-23 (before its repeal), or section 27 or 28 of this chapter, have been paid, except for the following:

(A) Claims under litigation before the date of the board's finding.

(B) Obligations owed to other political subdivisions.

(2) The township has no bonds outstanding that were issued to pay for township assistance in the distressed township.

(c) Notwithstanding section 4(2) of this chapter, if a township that has had the township's distressed status terminated under subsection (b) uses advances from the county from proceeds of bonds issued under IC 12-2-1 (before its repeal) or this article to pay township assistance claims more than one (1) time in the five (5) years following the termination of the township's distressed status, the township must have the township's civil and township assistance budgets reviewed and approved by the county fiscal body in each year that a tax is levied against the property in the township to repay the advances. The decision of the county fiscal body may be appealed to the department.

(d) Notwithstanding IC 12-2-5-6 (before its repeal), IC 12-2-5-8 (before its repeal), IC 12-20-23-15 (**before its repeal**), and

IC 12-20-23-19 (**before its repeal**), the aggregate principal amount of any outstanding debt that is incurred to pay township assistance claims during the five (5) years following the termination of the township's distressed status under subsection (b) and that is in excess of one-tenth percent (0.1%) of the adjusted value of taxable property in the township as determined under IC 36-1-15 is the direct general obligation of the county."

Page 22, after line 42, begin a new paragraph and insert:

"SECTION 35. IC 36-1-8-5, AS AMENDED BY P.L.73-2005, SECTION 171, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) This section applies to all funds raised by a general or special tax levy on all the taxable property of a political subdivision.

(b) Whenever the purposes of a tax levy have been fulfilled and an unused and unencumbered balance remains in the fund, the fiscal body of the political subdivision shall order the balance of that fund to be transferred as follows, unless a statute provides that it be transferred otherwise:

(1) Funds of a county, to the general fund or rainy day fund of the county, as provided in section 5.1 of this chapter.

(2) Funds of a municipality, to the general fund or rainy day fund of the municipality, as provided in section 5.1 of this chapter.

(3) Funds of a township for redemption of township assistance obligations, to the township assistance fund of the township or rainy day fund of the township, as provided in section 5.1 of this chapter.

(4) Funds of any other political subdivision, to the general fund or rainy day fund of the political subdivision, as provided in section 5.1 of this chapter. However, if the political subdivision is dissolved or does not have a general fund or rainy day fund, then to the general fund of each of the units located in the political subdivision in the same proportion that the assessed valuation of the unit bears to the total assessed valuation of the political subdivision.

(c) Whenever an unused and unencumbered balance remains in the civil township fund of a township and a current tax levy for the fund is not needed, the township fiscal body may order any part of the balance of that fund transferred to the debt service fund of the school corporation located in or partly in the township; but if more than one (1) school corporation is located in or partly in the township, then any sum transferred shall be transferred to the debt service fund of each of those school corporations in the same proportion that the part of the assessed valuation of the school corporation in the township bears to the total assessed valuation of the township.

(d) Transfers to a political subdivision's rainy day fund ~~must~~ **may** be made ~~after the last day of at any time during~~ the political subdivision's fiscal year. ~~and before March 1 of the subsequent calendar year.~~

Page 23, delete lines 34 through 42.

Page 24, delete lines 1 through 32.

Page 35, between lines 31 and 32, begin a new paragraph and insert:

"SECTION 51. IC 36-7-7.6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) ~~Twenty-six~~ (~~26~~) **Twenty-seven (27)** commission members constitute a quorum.

(b) An action of the commission is official only if both the following apply:

(1) The action is authorized at a regular meeting or a properly called special meeting in which at least one (1) member from each county described in section 1 of this chapter is present.

(2) The action is authorized by:

(A) the affirmative votes of ~~twenty-six (26)~~ **twenty-seven (27)** members of the commission; or

(B) a weighted affirmative vote of more than fifty (50) if a motion is made under subsection (c).

(c) The weighted voting authorized under this chapter may not be used after June 30, 2007. Upon a motion by any one (1) member of the commission that is properly seconded by another member at:

(1) a regular meeting; or

(2) a properly called special meeting;

the commission shall use the weighted voting process described in subsection (d).

(d) Until June 30, 2007, each commission member has a weighted vote determined as follows:

(1) In the case of a member appointed by the executive of a municipality, the member's weighted vote is determined in STEP FIVE of the following formula:

STEP ONE: Determine the population of the municipality as reported by the 2000 decennial census.

STEP TWO: Determine the sum of the population of the counties described in section 1 of this chapter as reported by the 2000 decennial census.

STEP THREE: Divide the number determined in STEP ONE by the number determined in STEP TWO.

STEP FOUR: Round the number determined in STEP THREE to the nearest ten-thousandth (0.0001).

STEP FIVE: Multiply the number determined in STEP FOUR by one hundred (100).

(2) In the case of a member appointed by the executive of a county, the member's weighted vote is determined in STEP FIVE of the following formula:

STEP ONE: Determine the population of the area in the county that is not within a municipality **and is not within a township described in section 4(a)(6) of this chapter** as reported by the 2000 decennial census.

STEP TWO: Determine the sum of the population of the counties described in section 1 of this chapter as reported by the 2000 decennial census.

STEP THREE: Divide the number determined in STEP ONE by the number determined in STEP TWO.

STEP FOUR: Round the number determined in STEP THREE to the nearest ten-thousandth (0.0001).

STEP FIVE: Multiply the number determined in STEP FOUR by fifty (50).

(3) In the case of a member appointed by a fiscal body, the member's weighted vote is determined in STEP FIVE of the following formula:

STEP ONE: Determine the population of the area in the county that is not within a municipality **and is not within a township described in section 4(a)(6) of this chapter** as reported by the 2000 decennial census.

STEP TWO: Determine the sum of the population of the counties described in section 1 of this chapter as reported by the 2000 decennial census.

STEP THREE: Divide the number determined in STEP ONE by the number determined in STEP TWO.

STEP FOUR: Round the number determined in STEP THREE to the nearest ten-thousandth (0.0001).

STEP FIVE: Multiply the number determined in STEP FOUR by fifty (50).

(4) In the case of a member appointed by the trustee of a township under section 4(a)(6) of this chapter, the member's weighted vote is determined in STEP FIVE of the following formula:

STEP ONE: Determine the population of the township as reported by the 2000 decennial census.

STEP TWO: Determine the sum of the population of the counties described in section 1 of this chapter as reported by the 2000 decennial census.

STEP THREE: Divide the number determined in STEP ONE by the number determined in STEP TWO.

STEP FOUR: Round the number determined in STEP THREE to the nearest ten-thousandth (0.0001).

STEP FIVE: Multiply the number determined in STEP FOUR by fifty (50)."

Page 40, line 6, delete "town board" and insert "township executive".

Page 40, line 7, delete "executives of" and insert "of the township containing".

Page 44, delete lines 11 through 12, begin a new paragraph and insert:

"SECTION 57. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2006]: IC 12-20-21-4; IC 12-20-23; IC 12-20-24-2; IC 12-20-24-3; IC 12-20-24-4."

Renumber all SECTIONS consecutively.

(Reference is to HB 1102 as printed January 18, 2006.)

HINKLE

Motion prevailed.

HOUSE MOTION  
(Amendment 1102-8)

Mr. Speaker: I move that House Bill 1102 be amended to read as follows:

Page 22, line 40, delete "five" and insert "two".

Page 22, line 40, after "hundred" insert "fifty".

Page 22, line 40, delete "(\$500);" and insert "(\$250);".

(Reference is to HB 1102 as printed January 18, 2002.)

BORDERS

Motion prevailed.

HOUSE MOTION  
(Amendment 1102-4)

Mr. Speaker: I move that House Bill 1102 be amended to read as follows:

Page 35, between lines 2 and 3, begin a new paragraph and insert:  
"SECTION 34. IC 36-7-4-1109 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 1109. (a) As used in this section, "governmental agency" includes any agency, officer, board, or commission of government that may issue:**

(1) a permit; or

(2) an approval for the construction of a development, a building, or another structure.

(b) As used in this section, "permit" means any of the following:

(1) An improvement location permit.

(2) A building permit.

(3) A certificate of occupancy.

(4) Approval of a site-specific development plan.

(5) Approval of a primary or secondary plat.

(6) Approval of a special exception or special use.

(7) Approval of a planned unit development.

(c) If a person files an application for a permit with the appropriate governmental agency, the granting of the permit is governed by the statutes, ordinances, rules, development standards, and regulations in effect and applicable to the subject property when the application is filed, even if before the issuance of the permit or while the permit approval process is pending the statutes, ordinances, rules, development standards, or regulations governing the granting of the permit are changed:

(1) by the general assembly or the applicable local legislative body or regulatory body; or

(2) as the result of the annexation of the property to which the permit relates.

(d) Subsection (c) applies if:

(1) either:

(A) a governmental agency issues to a person a permit or grants a person approval for the construction of a development, a building, or another structure; or

(B) a permit or approval is not required from the governmental agency for the construction of the development, building, or structure;

(2) before beginning the construction of the development, building, or structure, the person must obtain a permit or approval for the construction of the development, building, or structure from a second governmental agency; and

(3) the person has applied for the permit or requested approval for the construction of the development, building, or structure from the second governmental agency.

(e) If the conditions of subsection (d) are satisfied:

(1) a permit or approval issued or granted to a person by the first governmental agency for the construction of the development, building, or structure; or

(2) the person's right to construct the development, building, or structure without a permit or approval from the first governmental agency;

is governed by the statutes, ordinances, rules, development standards, regulations, and approvals in effect and applicable to the subject property when the person applies for the permit or

requests the approval from the second governmental agency for the construction of the development, building, or structure, even if before the commencement of the construction or while the permit application or approval request is pending with the second governmental agency the statutes governing the granting of the permit or approval from the first governmental agency are changed by the general assembly or the ordinances, rules, development standards, or regulations of the first governmental agency are changed by the applicable local legislative body or regulatory body or as the result of the annexation of the property to which the permit relates."

Renumber all SECTIONS consecutively.

(Reference is to HB 1102 as printed January 18, 2006.)

WOLKINS

Motion prevailed.

HOUSE MOTION  
(Amendment 1102-5)

Mr. Speaker: I move that House Bill 1102 be amended to read as follows:

Page 22, between lines 31 and 32, begin a new paragraph and insert:

"SECTION 18. IC 13-21-3-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 12. Except as provided in section 14.5 of this chapter, the powers of a district include the following:

(1) The power to develop and implement a district solid waste management plan under IC 13-21-5.

(2) The power to impose district fees on the final disposal of solid waste within the district under IC 13-21-13.

(3) The power to receive and disburse money, if the primary purpose of activities undertaken under this subdivision is to carry out the provisions of this article.

(4) The power to sue and be sued.

(5) The power to plan, design, construct, finance, manage, own, lease, operate, and maintain facilities for solid waste management.

(6) The power to enter with any person into a contract or an agreement that is necessary or incidental to the management of solid waste. Contracts or agreements that may be entered into under this subdivision include those for the following:

(A) The design, construction, operation, financing, ownership, or maintenance of facilities by the district or any other person.

(B) The managing or disposal of solid waste.

(C) The sale or other disposition of materials or products generated by a facility.

Notwithstanding any other statute, the maximum term of a contract or an agreement described in this subdivision may not exceed forty (40) years.

(7) The power to enter into agreements for the leasing of facilities in accordance with IC 36-1-10 or IC 36-9-30.

(8) The power to purchase, lease, or otherwise acquire real or personal property for the management or disposal of solid waste.

(9) The power to sell or lease any facility or part of a facility to any person.

(10) The power to make and contract for plans, surveys, studies, and investigations necessary for the management or disposal of solid waste.

(11) The power to enter upon property to make surveys, soundings, borings, and examinations.

(12) The power to:

(A) accept gifts, grants, loans of money, other property, or services from any source, public or private; and

(B) comply with the terms of the gift, grant, or loan.

(13) The power to levy a tax within the district to pay costs of operation in connection with solid waste management, subject to the following:

(A) Regular budget and tax levy procedures.

(B) Section 16 of this chapter.

However, except as provided in sections 15 and 15.5 of this chapter, a property tax rate imposed under this article may not

exceed eight and thirty-three hundredths cents (\$0.0833) on each one hundred dollars (\$100) of assessed valuation of property in the district.

(14) The power to borrow in anticipation of taxes.

(15) The power to hire the personnel necessary for the management or disposal of solid waste in accordance with an approved budget and to contract for professional services.

(16) The power to otherwise do all things necessary for the:

(A) reduction, management, and disposal of solid waste; and

(B) recovery of waste products from the solid waste stream;

if the primary purpose of activities undertaken under this subdivision is to carry out the provisions of this article.

(17) The power to adopt resolutions that have the force of law. However, a resolution is not effective in a municipality unless the municipality adopts the language of the resolution by ordinance or resolution.

(18) The power to do the following:

(A) Implement a household hazardous waste and conditionally exempt small quantity generator (as described in 40 CFR 261.5(a)) collection and disposal project.

(B) Apply for a household hazardous waste collection and disposal project grant under IC 13-20-20 and carry out all commitments contained in a grant application.

(C) Establish and maintain a program of self-insurance for a household hazardous waste and conditionally exempt small quantity generator (as described in 40 CFR 261.5(a)) collection and disposal project, so that at the end of the district's fiscal year the unused and unencumbered balance of appropriated money reverts to the district's general fund only if the district's board specifically provides by resolution to discontinue the self-insurance fund.

(D) Apply for a household hazardous waste project grant as described in IC 13-20-22-2 and carry out all commitments contained in a grant application.

(19) The power to enter into an interlocal cooperation agreement under IC 36-1-7 to obtain:

(A) fiscal;

(B) administrative;

(C) managerial; or

(D) operational;

services from a county or municipality.

(20) The power to compensate **board members and** advisory committee members for attending meetings at a rate determined by the board. **However, compensation paid under this subdivision to a board member or an advisory committee member may not exceed seventy-five dollars (\$75) for each meeting.**

(21) The power to reimburse board and advisory committee members for travel and related expenses at a rate determined by the board.

(22) In a joint district, the power to pay a fee from district money to the counties in the district in which a final disposal facility is located.

(23) The power to make grants or loans of:

(A) money;

(B) property; or

(C) services;

to public or private recycling programs, composting programs, or any other programs that reuse any component of the waste stream as a material component of another product, if the primary purpose of activities undertaken under this subdivision is to carry out the provisions of this article.

(24) The power to establish by resolution a nonreverting capital fund. A district's board may appropriate money in the fund for:

(A) equipping;

(B) expanding;

(C) modifying; or

(D) remodeling;

an existing facility. Expenditures from a capital fund established under this subdivision must further the goals and objectives contained in a district's solid waste management plan. Not more than five percent (5%) of the district's total annual budget for the year may be transferred to the capital fund that year. The

balance in the capital fund may not exceed twenty-five percent (25%) of the district's total annual budget. If a district's board determines by resolution that a part of a capital fund will not be needed to further the goals and objectives contained in the district's solid waste management plan, that part of the capital fund may be transferred to the district's general fund, to be used to offset tipping fees, property tax revenues, or both tipping fees and property tax revenues.

(25) The power to conduct promotional or educational programs that include giving awards and incentives that further the district's solid waste management plan.

(26) The power to conduct educational programs under IC 13-20-17.5 to provide information to the public concerning:

(A) the reuse and recycling of mercury in:

- (i) mercury commodities; and
- (ii) mercury-added products; and

(B) collection programs available to the public for:

- (i) mercury commodities; and
- (ii) mercury-added products.

(27) The power to implement mercury collection programs under IC 13-20-17.5 for the public and small businesses."

Page 34, between lines 9 and 10, begin a new paragraph and insert: "SECTION 34. IC 36-6-6-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10. (a) This section does not apply to the appropriation of money to pay a deputy, an employee, or a technical adviser that assists a township assessor with assessment duties or to an elected township assessor.

(b) The township legislative body shall fix the:

- (1) salaries;
- (2) wages;
- (3) rates of hourly pay; and
- (4) remuneration other than statutory allowances;

of all officers and employees of the township.

(c) Subject to subsection (d), the township legislative body may reduce the salary of an elected or appointed official. However, **except as provided in subsection (i)**, the official is entitled to a salary that is not less than the salary fixed for the first year of the term of office that immediately preceded the current term of office.

(d) Except as provided in ~~subsection~~ **subsections (e) and (i)**, the township legislative body may not alter the salaries of elected or appointed officers during the fiscal year for which they are fixed, but it may add or eliminate any other position and change the salary of any other employee, if the necessary funds and appropriations are available.

(e) In a township that does not elect a township assessor under IC 36-6-5-1, the township legislative body may appropriate available township funds to supplement the salaries of elected or appointed officers to compensate them for performing assessing duties. However, in any calendar year no officer or employee may receive a salary and additional salary supplements which exceed the salary fixed for that officer or employee under subsection (b).

(f) If a change in the mileage allowance paid to state officers and employees is established by July 1 of any year, that change shall be included in the compensation fixed for the township executive and assessor under this section, to take effect January 1 of the next year. However, the township legislative body may by ordinance provide for the change in the sum per mile to take effect before January 1 of the next year.

(g) The township legislative body may not reduce the salary of the township executive without the consent of the township executive during the term of office of the township executive as set forth in IC 36-6-4-2.

(h) This subsection applies when a township executive dies or resigns from office. The person filling the vacancy of the township executive shall receive at least the same salary the previous township executive received for the remainder of the unexpired term of office of the township executive (as set forth in IC 36-6-4-2), unless the person consents to a reduction in salary.

**(i) In a year in which there is not an election of members to the township legislative body, the township legislative body may by unanimous vote reduce the salaries of the members of the township legislative body by any amount."**

Page 35, between lines 31 and 32, begin a new paragraph and insert:

"SECTION 37. IC 36-7-14-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. (a) Each redevelopment commissioner shall serve for ~~one (1) year~~ **three (3) years** from the first day of January after ~~his the commissioner's~~ appointment and until ~~his the commissioner's~~ successor is appointed and has qualified. ~~except that the original commissioners shall serve from the date of their appointment until the first day of January in the second year after their appointment:~~ If a vacancy occurs, a successor shall be appointed in the same manner as the original commissioner, and the successor shall serve for the remainder of the vacated term.

(b) Each redevelopment commissioner, before beginning ~~his the commissioner's~~ duties, shall take and subscribe an oath of office in the usual form, to be endorsed on the certificate of ~~his the commissioner's~~ appointment, which shall be promptly filed with the clerk for the unit that ~~he the commissioner~~ serves.

(c) Each redevelopment commissioner, before beginning ~~his the commissioner's~~ duties, shall execute a bond payable to the state, with surety to be approved by the executive of the unit. The bond must be in the penal sum of fifteen thousand dollars (\$15,000) and must be conditioned on the faithful performance of the duties of ~~his the commissioner's~~ office and the accounting for all monies and property that may come into ~~his the commissioner's~~ hands or under ~~his the commissioner's~~ control. The cost of the bond shall be paid by the special taxing district.

(d) A redevelopment commissioner must be at least eighteen (18) years of age, and must be a resident of the unit that ~~he the commissioner~~ serves.

(e) If a commissioner ceases to be qualified under this section, ~~he the commissioner~~ forfeits ~~his the commissioner's~~ office.

(f) Except as provided in subsection (g), redevelopment commissioners are not entitled to salaries but are entitled to reimbursement for expenses necessarily incurred in the performance of their duties.

(g) A redevelopment commissioner who does not otherwise hold a lucrative office for the purpose of Article 2, Section 9 of the Indiana Constitution may receive:

- (1) a salary; or
- (2) a per diem;

and is entitled to reimbursement for expenses necessarily incurred in the performance of the redevelopment commissioner's duties."

Page 45, between lines 12 and 13, begin a new paragraph and insert:

"SECTION 46. [EFFECTIVE JULY 1, 2006] **IC 36-7-14-7, as amended by this act, applies to the term of a redevelopment commissioner that begins after June 30, 2006."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1102 as printed January 18, 2006.)

THOMPSON

Motion prevailed.

HOUSE MOTION  
(Amendment 1102-10)

Mr. Speaker: I move that House Bill 1102 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-3-1-0.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 0.4. As used in this chapter, "newspaper" refers to a newspaper that:

- (1) is a daily, weekly, semiweekly, or triweekly newspaper of general circulation;
- (2) has:

- (A) been published for at least ~~three (3)~~ **two (2)** consecutive years in the same city or town;
- (B) obtained subscriptions from at least ten percent (10%) of the population of the city or town in which the newspaper is published; or
- (C) accumulated at least fifty percent (50%) of all newspaper subscriptions in the city or town in which the newspaper is published;

- (3) has been entered, authorized, and accepted by the United States Postal Service for at least three (3) consecutive years as mailable matter of the periodicals class; and
- (4) has at least fifty percent (50%) of all copies circulated paid for by subscribers or other purchasers at a rate that is not nominal.

SECTION 2. IC 5-3-1-0.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 0.7. (a) As used in this chapter, "qualified publication" means a publication that:

- (1) is published daily, weekly, semiweekly, or triweekly;
- (2) is of general circulation to the public;
- (3) has:
- (A) been published for at least ~~three (3)~~ **two (2)** consecutive years in the same city or town;
- (B) obtained subscriptions from at least ten percent (10%) of the population of the city or town in which the newspaper is published; or**
- (C) accumulated at least fifty percent (50%) of all newspaper subscriptions in the city or town in which the newspaper is published;**
- (4) has continuity as to title and general nature of content from issue to issue;
- (5) contains news of general or community interest, community notices, or editorial commentary;
- (6) contains advertisements from unrelated advertisers in each issue;
- (7) has, in more than one-half (½) of its issues published during the previous twelve (12) month period, not more than seventy-five percent (75%) advertising content;
- (8) has a known office location in the county in which it is published; and
- (9) has been entered, authorized, and accepted by the United States Postal Service as mailable matter of standard mail (A) class for the time published.

(b) A publication is not a qualified publication if any of the following apply:

- (1) The publication is owned by, or under the control of, the owners or lessees of a shopping center or a merchant's association.
- (2) The publication is owned by, or under the control of, a business that sells property or services (other than advertising) and the predominant advertising in the publication is advertising for the business's sales of property or services.
- (3) The publication is a mail order catalog or other catalog, advertising flier, travel brochure, house organ, theater program, telephone directory, restaurant guide, shopping center advertising sheet, or other similar publication.
- (4) The publication is primarily devoted to matters of specialized interest such as a labor, fraternal, society, political, religious, sporting, or trade news publication or journal.
- (5) The publication is a magazine, racing form, or tip sheet."

Renumber all SECTIONS consecutively.

(Reference is to HB 1102 as printed January 18, 2006).

THOMPSON

Motion prevailed. The bill was ordered engrossed.

### House Bill 1073

Representative Walorski called down House Bill 1073 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

### House Bill 1049

Representative Bell called down House Bill 1049 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

## REPORTS FROM COMMITTEES

### COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1032, has had the same under consideration and begs leave to report the same back to the House with the recommendation

that said bill do pass.

Committee Vote: yeas 10, nays 1.

FOLEY, Chair

Report adopted.

### COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1056, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 5, reset in roman "it is economically".

Page 1, line 6, reset in roman "it is impractical".

Page 1, line 6, delete "the cost".

Page 1, line 7, delete "exceeds".

Page 1, delete line 8.

Page 1, line 9, delete "immediately before the wreck or damage occurred".

Page 1, line 12, after "vehicles" insert ",".

Page 1, line 12, strike "or an insurance company,".

Page 2, delete lines 1 through 11.

Page 2, line 12, reset in roman "(b)".

Page 2, line 12, delete "(c)".

Page 2, line 17, reset in roman "(c)".

Page 2, line 17, delete "(d)" and insert "**Except as provided in section 11(c) of this chapter,**".

Page 2, line 17, delete "An" and insert "an".

Page 2, line 17, delete "or an owner described in".

Page 2, line 18, delete "subsection (a)(2)".

Page 2, line 18, after "that" insert "**the insurance company has determined is economically impractical to repair.**

**(d) An owner described in subsection (a)(2) shall apply for a salvage title for any vehicle that".**

Page 2, reset in roman lines 19 through 21.

Page 2, line 22, reset in roman "vehicle".

Page 2, line 22, after "(a)(1)" insert ".".

Page 2, line 22, delete "or (a)(2)".

Page 2, after line 22, begin a new paragraph and insert:

"SECTION 2. IC 9-22-3-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 11. (a) This section applies to the following persons:

(1) An insurance company that declares a wrecked or damaged motor vehicle, motorcycle, semitrailer, or recreational vehicle that meets at least one (1) of the criteria set forth in section 3 of this chapter and the ownership of which is not evidenced by a certificate of salvage title.

(2) An insurance company that has made and paid an agreed settlement for the loss of a stolen motor vehicle, motorcycle, semitrailer, or recreational vehicle **that:**

**(A) has been recovered by the titled owner; and**  
**(B) meets at least one (1) of the criteria set forth in section 3 of this chapter.**

(b) A person who owns or holds a lien upon a vehicle described in subsection (a) shall assign the certificate of title to the insurance company described in subsection (a). The insurance company shall apply to the bureau within thirty-one (31) days after receipt of the certificate of title for a certificate of salvage title for each salvage or stolen vehicle subject to this chapter. The insurance company shall surrender the certificate of title to the department and pay the fee prescribed under IC 9-29-7 for a certificate of salvage title.

**(c) When the owner of a vehicle described in subsection (a) retains possession of the vehicle:**

**(1) the insurance company that makes an agreed settlement for the vehicle shall:**

**(A) obtain the certificate of title; and**  
**(B) submit to the bureau:**  
**(i) the certificate of title;**  
**(ii) the appropriate fee; and**  
**(iii) a request for a certificate of salvage title on a form prescribed by the bureau; and**

**(2) after the bureau has received the items set forth in subsection (1)(B), the bureau shall issue a certificate of salvage title to the owner.**

(c) (d) When a self-insured entity is the owner of a salvage motor vehicle, motorcycle, semitrailer, or recreational vehicle that meets at least one (1) of the criteria set forth in section 3 of this chapter, the self-insured entity shall apply to the bureau within thirty-one (31) days after the date of loss for a certificate of salvage title in the name of the self-insured entity's name.

(d) (e) Any other person acquiring a wrecked or damaged motor vehicle, motorcycle, semitrailer, or recreational vehicle that meets at least one (1) of the criteria set forth in section 3 of this chapter, which acquisition is not evidenced by a certificate of salvage title, shall apply to the bureau within thirty-one (31) days after receipt of the certificate of title for a certificate of salvage title.

**(f) A person that violates this section commits a Class D infraction.**

SECTION 3. IC 9-22-3-37 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 37. **Except for a violation of section 11 of this chapter**, a person who violates this chapter commits a deceptive act that is actionable by the attorney general and is subject to the remedies and penalties under IC 24-5-0.5.

SECTION 4. IC 9-29-7-2.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2.3. **(a) The fee for a certificate of salvage title is four dollars (\$4).**

**(b) The fee for a delinquent certificate of salvage title is ten dollars (\$10). The bureau shall collect this fee if:**

**(1) a purchaser or transferee fails to apply for a certificate of salvage title or a transfer of title, by assignment, not later than thirty-one (31) days after the salvage motor vehicle is purchased or otherwise acquired; or**

**(2) the owner of a salvage motor vehicle retains possession of the salvage motor vehicle and the owner fails to apply for a certificate of salvage title not later than thirty-one (31) days after the settlement of loss with the insurance company.**

SECTION 5. IC 9-29-7-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2.5. **The fee for a duplicate certificate of salvage title is four dollars (\$4).**

SECTION 6. IC 9-29-7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. The revenues from the:

**(1) certificate of salvage titles collected under IC 9-22-3; and**

**(2) license fees collected under IC 9-22-4;**

shall be deposited in the motor vehicle highway account.

SECTION 7. IC 9-29-4-6 IS REPEALED [EFFECTIVE JULY 1, 2006]."

(Reference is to HB 1056 as introduced.)  
and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 0.

DUNCAN, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1112, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 15, delete "A" and insert "**Except as provided in section 5 of this chapter, a**".

Page 2, after line 6, begin a new paragraph and insert:

**"Sec. 5. A court may admit a statement of fault into evidence, including a statement of fault that is part of a communication of sympathy, if otherwise admissible under the Indiana Rules of Evidence."**

(Reference is to HB 1112 as introduced.)  
and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 2.

FOLEY, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1158, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 9-29-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) The main department, office, agency, or other person under whose supervision a law enforcement officer carries on the law enforcement officer's duties may charge a fee that is fixed by ordinance of the fiscal body in an amount not less than ~~three five~~ **three** dollars (~~\$37~~) (**\$5**) for each report.

(b) The fee collected under subsection (a) shall be deposited in the following manner:

(1) If the department supplying a copy of the accident report is the state police department, in a separate account known as the "accident report account". The account may be expended at the discretion of the state police superintendent for a purpose reasonably related to the keeping of accident reports and records or the prevention of street and highway accidents.

(2) If the department supplying a copy of the accident report is the sheriff, county police, or county coroner, in a separate account known as the "accident report account". The account may be expended at the discretion of the chief administrative officer of the entity that charged the fee for any purpose reasonably related to the keeping of accident reports and records or the prevention of street and highway accidents.

(3) If the department supplying a copy of the accident report is a city or town police department, in the local law enforcement continuing education fund established by IC 5-2-8-2."

Page 2, after line 42, begin a new paragraph and insert:

"SECTION 4. IC 33-37-5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 15. **(a) The sheriff shall collect a service of process fee of thirteen dollars (\$13) from a party requesting service of a writ, an order, a process, a notice, a tax warrant, or any other paper completed by the sheriff.**

(b) The sheriff shall collect from the person who filed the civil action a service of process fee of ~~forty sixty~~ **forty** dollars (~~\$407~~) (**\$60**), in addition to any other fee for service of process, if:

(1) a person files a civil action outside Indiana; and

(2) a sheriff in Indiana is requested to perform a service of process associated with the civil action in Indiana.

(c) A sheriff shall transfer fees collected under this section to the county auditor of the county in which the sheriff has jurisdiction.

(d) The county auditor shall deposit fees collected under this section:

(1) in the pension trust established by the county under IC 36-8-10-12; or

(2) if the county has not established a pension trust under IC 36-8-10-12, in the county general fund."

Page 3, after line 14, begin a new paragraph and insert:

"SECTION 6. IC 33-37-7-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 11. (a) This section applies to a county in which there is established a pension trust under IC 36-8-10-12.

(b) For each service of a writ, an order, a process, a notice, a tax warrant, or other paper completed by the sheriff of a county described in subsection (a), the sheriff shall submit to the county fiscal body a verified claim of service.

(c) From the county share distributed under section 3 or 4 of this chapter and deposited into the county general fund, the county fiscal body shall appropriate ~~twelve thirteen~~ **twelve** dollars (~~\$127~~) (**\$13**) for each verified claim submitted by the sheriff under subsection (b). Amounts appropriated under this subsection shall be deposited by the county auditor into the pension trust established under IC 36-8-10-12.

SECTION 7. IC 36-2-16-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. Each of the following county officers is entitled to appoint one (1) first or chief deputy, and also may appoint the number of other full-time or part-time deputies and employees authorized by the county fiscal body:

(1) The county auditor.

- (2) The county treasurer.
- (3) The county recorder.
- (4) The county superintendent of schools.
- (5) The county sheriff."**

Renumber all SECTIONS consecutively.  
(Reference is to HB 1158 as introduced.)  
and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

FOLEY, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1232, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 10, nays 0.

FOLEY, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1287, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 8-16-1-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 26. (a) This section applies only to a bridge that:

- (1) was constructed under this chapter; and
- (2) crosses the Wabash River.

(b) Notwithstanding any other provisions of this chapter, a bridge subject to this section ~~does not become a part of the system of state highways free of tolls or a tollway under IC 8-15-3 when bonds are retired and all funds fully reimbursed: on July 1, 2006, shall, without a deed of conveyance or any action by the authority, become the property of the state to be operated and maintained by the department as a part of the state highway system.~~

(c) The department may operate the bridge as a toll bridge and:

- (1) fix;
- (2) maintain; and
- (3) collect tolls for the use of;

**the bridge.**

~~(c)~~ (d) Money collected for the use of a bridge subject to this section shall be allocated to the ~~authority~~ **department** and used by **the department** for the following purposes:

- (1) Operation of the toll bridge facility.
- (2) Maintenance of the toll bridge facility.

~~(3) A reserve fund for future toll bridges over the Ohio River to be located within the same county in which the bridge subject to this section is located."~~

Page 1, line 3, delete "may:" and insert "**shall:**".

Page 1, line 5, delete "or" and insert "**and**".

Page 1, delete lines 9 through 17, begin a new paragraph and insert:

"SECTION 3. IC 9-13-2-27.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 27.3. "Clear zone" means the unobstructed, relatively flat area, including any shoulder or auxiliary lane, provided beyond the edge of a highway for the recovery of errant vehicles.**

SECTION 4. IC 9-13-2-69.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 69.1. "Freeway service patrol responder", for purposes of IC 9-21-16, has the meaning set forth in IC 9-21-16-0.5.**

SECTION 5. IC 9-13-2-127, AS AMENDED BY P.L.210-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 127. (a) "Police officer" means,

except as provided in subsection (b), the following:

- (1) A regular member of the state police department.
- (2) A regular member of a city or town police department.
- (3) A town marshal or town marshal deputy.
- (4) A regular member of a county sheriff's department.
- (5) A conservation officer of the department of natural resources.
- (6) An individual assigned as a motor carrier inspector under IC 10-11-2-26(a).

(b) "Police officer", for purposes of IC 9-21, means an officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations. **However, for purposes of IC 9-21-16-4.5, the term refers to only the following:**

- (1) A regular member of the state police department.**
- (2) A regular member of a city or town police department.**
- (3) A regular member of a county sheriff's department.**

SECTION 6. IC 9-21-4-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 19. (a) A person who violates section 4, 5, 6, 16, 17, or 18 of this chapter commits a Class C infraction.

**(b) Notwithstanding:**

- (1) IC 34-28-5-4(c), a civil judgment of at least one hundred dollars (\$100) shall be imposed for an infraction committed in violation of section 16 of this chapter; and**
- (2) IC 34-28-5-5(c), civil penalties collected for a violation of section 16 of this chapter shall be deposited in the railroad grade crossing fund created by IC 8-6-7.7-6.1.**

SECTION 7. IC 9-21-8-49 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 49. (a) Except as provided in sections 50, 51, 52, and 54 of this chapter, a person who violates this chapter commits a Class C infraction.

**(b) Notwithstanding:**

- (1) IC 34-28-5-4(c), a civil judgment of at least one hundred dollars (\$100) shall be imposed for an infraction committed in violation of:**

**(A) section 8(b)(2) of this chapter if a vehicle is driven to the left side of the roadway when:**

- (i) approaching within one hundred (100) feet of; or**
- (ii) traversing;**

**a railroad grade crossing; or**

**(B) section 39 of this chapter; and**

- (2) IC 34-28-5-5(c), civil penalties collected under:**

**(A) section 8(b)(2) of this chapter for a violation described in subdivision (1)(A); and**

**(B) section 39 of this chapter;**

**shall be deposited in the railroad grade crossing fund created by IC 8-6-7.7-6.1.**

SECTION 8. IC 9-21-8-52, AS AMENDED BY P.L.1-2005, SECTION 103, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 52. (a) A person who operates a vehicle and who recklessly:

- (1) drives at such an unreasonably high rate of speed or at such an unreasonably low rate of speed under the circumstances as to:

**(A) endanger the safety or the property of others; or**

**(B) block the proper flow of traffic;**

- (2) passes another vehicle from the rear while on a slope or on a curve where vision is obstructed for a distance of less than five hundred (500) feet ahead;

- (3) drives in and out of a line of traffic, except as otherwise permitted;

- (4) speeds up or refuses to give one-half (½) of the roadway to a driver overtaking and desiring to pass; or

- (5) passes a school bus stopped on a roadway when the arm signal device specified in IC 9-21-12-13 is in the device's extended position;

commits a Class B misdemeanor.

**(b) A person who:**

- (1) operates a vehicle; and**

**(2) recklessly drives at such an unreasonably high rate of speed or at such an unreasonably low rate of speed under the circumstances as to endanger the safety of an individual authorized by the Indiana department of transportation to**

**be in a highway worksite zone; commits a Class A misdemeanor.**

(b) (c) If an offense under subsection (a) results in damage to the property of another person, the court shall recommend the suspension of the current driving license of the person for a fixed period of:

- (1) not less than thirty (30) days; and
- (2) not more than one (1) year.

SECTION 9. IC 9-21-12-11, AS AMENDED BY P.L.231-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 11. (a) A person who violates section 5, 6, or 7 of this chapter commits a Class C infraction.

**Notwithstanding:**

- (1) **IC 34-28-5-4(c), a civil judgment of at least one hundred dollars (\$100) shall be imposed for an infraction committed in violation of section 5 of this chapter; and**
- (2) **IC 34-28-5-5(c), civil penalties collected for a violation of section 5 of this chapter shall be deposited in the railroad grade crossing fund created by IC 8-6-7.7-6.1.**

(b) A person who knowingly or intentionally violates section 12, 13, 14, 15, 16, or 17 of this chapter commits a Class C misdemeanor.

SECTION 10. IC 9-21-16-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 0.5. **As used in this chapter, "freeway service patrol responder" means a regular member of the Indiana department of transportation's freeway service patrol.**

SECTION 11. IC 9-21-16-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4.5. **(a) A person may not stop, stand, or park a vehicle for more than twenty-four (24) hours in a clear zone that is adjacent to a highway that is a part of the interstate highway system.**

**(b) If a police officer or a freeway service patrol responder discovers a vehicle that is stopped, standing, or parked in violation of subsection (a), the police officer or freeway service patrol responder shall cause the vehicle to be removed from the clear zone and stored in a suitable place.**

**(c) The removal of a vehicle under subsection (b) is in addition to any penalty imposed under section 9 of this chapter.**

**(d) This section may not be construed to confer upon a freeway service patrol responder any police powers other than the power granted under subsection (b).**

SECTION 12. IC 9-22-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. This chapter does not apply to the following:

- (1) A vehicle in operable condition specifically adapted or constructed for operation on privately owned raceways.
- (2) A vehicle stored as the property of a member of the armed forces of the United States who is on active duty assignment.
- (3) A vehicle located on a vehicle sale lot.
- (4) A vehicle located upon property licensed or zoned as an automobile scrapyards.
- (5) A vehicle registered and licensed under IC 9-18-12 as an antique vehicle.
- (6) **A vehicle located in a clear zone and subject to IC 9-21-16-4.5.**

SECTION 13. IC 9-24-6-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 18. (a) Except as provided in sections 16 and 17 of this chapter, a person who violates this chapter commits a Class C infraction.

**(b) Notwithstanding:**

- (1) **IC 34-28-5-4(c), a civil judgment of at least one hundred dollars (\$100) shall be imposed for an infraction committed in violation of section 6(a)(7) or 6(a)(8) of this chapter; and**
- (2) **IC 34-28-5-5(c), civil penalties collected for a violation of section 6(a)(7) or 6(a)(8) of this chapter shall be deposited in the railroad grade crossing fund created by IC 8-6-7.7-6.1.**

SECTION 14. IC 33-37-5-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14. (a) This section applies to criminal, infraction, and ordinance violation actions that are traffic offenses (as defined in IC 9-30-3-5).

(b) The clerk shall collect a highway worksite zone fee of fifty

cents (\$0.50). However, the clerk shall collect a highway worksite zone fee of twenty-five dollars and fifty cents (\$25.50) if:

- (1) the criminal action, infraction, or ordinance violation is:
  - (A) exceeding a worksite speed limit (as provided in IC 9-21-5-2 and authorized by IC 9-21-5-3); ~~or~~
  - (B) failure to merge (as provided in IC 9-21-8-7.5); ~~and or~~
  - (C) **reckless driving that endangers the safety of an individual authorized by the Indiana department of transportation to be in a highway worksite zone (as provided in IC 9-21-8-52(b)); and**

- (2) the judge orders the clerk to collect the fee for exceeding a worksite speed limit, ~~or~~ failure to merge, ~~or reckless driving that endangers the safety of an individual authorized by the Indiana department of transportation to be in a highway worksite zone."~~

Delete pages 2 through 6.

Renumber all SECTIONS consecutively.

(Reference is to HB 1287 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 0.

DUNCAN, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1306, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 12, nays 0.

FOLEY, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1367, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 1, delete "IC 34-30-5.5 IS ADDED TO THE INDIANA CODE".

Page 1, line 2, delete "AS A NEW CHAPTER TO READ AS FOLLOWS".

Page 1, line 3, delete "2006:]" and insert "2006]".

Page 1, delete lines 4 through 16.

Page 1, line 17, delete "Sec. 3." and insert "(a)".

Page 1, line 17, delete "chapter" and insert "SECTION,".

Page 1, run in lines 3 and 17.

Page 2, delete lines 12 through 16, begin a new paragraph and insert:

**"(b) The interim study committee on insurance and liability concerns of small nonprofit organizations is established. The committee shall study insurance and liability issues affecting small nonprofit organizations and may prepare legislation for introduction in the 2007 session of the general assembly.**

**(c) The committee shall operate under the policies governing study committees adopted by the legislative council.**

**(d) The affirmative votes of a majority of the voting members appointed to the committee are required for the committee to take action on any measure, including final reports.**

**(e) This SECTION expires November 1, 2006."**

(Reference is to HB 1367 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 1.

FOLEY, Chair

Report adopted.

#### OTHER BUSINESS ON THE SPEAKER'S TABLE

##### Referrals to Ways and Means

The Speaker announced, pursuant to House Rule 127, that House Bill 1032 had been referred to the Committee on Ways and Means.

HOUSE MOTION

Mr. Speaker: I move that Representative Ruppel be added as coauthor of House Bill 1028.

KOCH

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Ulmer and Thomas be added as coauthors of House Bill 1032.

BUELL

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Porter be added as coauthor of House Bill 1062.

HINKLE

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives T. Harris and Noe be added as coauthors of House Bill 1096.

WOODRUFF

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Kuzman, Bischoff, and Stutzman be added as coauthors of House Bill 1098.

FRIZZELL

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Thomas, Kuzman, and Pond be added as coauthors of House Bill 1112.

FOLEY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Messer, Summers, and L. Lawson be added as coauthors of House Bill 1128.

DUNCAN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Thomas be added as coauthor of House Bill 1207.

POND

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Budak and L. Lawson be added as coauthors of House Bill 1232.

AYRES

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Welch be added as coauthor of House Bill 1235.

RUPPEL

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Fry be added as coauthor of House Bill 1239.

RIPLEY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Hinkle, Hoy, and Moses be added as coauthors of House Bill 1249.

MESSER

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Kuzman and Bardon be added as coauthors of House Bill 1261.

BURTON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Grubb be added as coauthor of House Bill 1284.

J. LUTZ

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Burton be added as coauthor of House Bill 1299.

BARDON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative GiaQuinta be added as coauthor of House Bill 1323.

DODGE

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Heim be added as coauthor of House Bill 1332.

FRIEND

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Tincher be added as coauthor of House Bill 1334.

MESSER

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Cherry be added as coauthor of House Bill 1336.

THOMPSON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Heim and Crooks be added as coauthors of House Bill 1353.

WALORSKI

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Fry be added as coauthor of House Bill 1391.

RIPLEY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Fry be added as coauthor of House Bill 1392.

RIPLEY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Gutwein and Kuzman be added as coauthors of House Bill 1418.

AYRES

Motion prevailed.

Pursuant to House Rule 60, committee meetings were announced.

On the motion of Representative Pond, the House adjourned at 10:00 p.m., this twenty-third day of January, 2006, until Tuesday, January 24, 2006, at 1:30 p.m.

BRIAN C. BOSMA  
Speaker of the House of Representatives

M. CAROLINE SPOTTS  
Principal Clerk of the House of Representatives